Journal of the House

State of Indiana

115th General Assembly *First Regular Session*

Thirty-ninth Meeting Day **Tuesday Afternoon** **April 3, 2007**

The House convened at 1:00 p.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker read a prayer for health and well-being (printed January 11, 2007).

The Pledge of Allegiance to the Flag was led by Representative Robert J. Bischoff.

The Speaker ordered the roll of the House to be called:

Austin ⏏
Avery
Bardon
Battles
Behning
Bell
Bischoff
Borders
Borror
Bosma
C. Brown
T. Brown
Buck
Buell
Burton
Candelaria Reardon
Cheatham
Cheney
Cherry
Cochran
Crawford
Crooks
Crouch
Davis
Day
Dembowski
Denbo
Dermody
Dickinson
Dobis
Dodge
Duncan
Dvorak
Eberhart
Elrod
Espich
Foley
Friend
Frizzell
Fry
GiaQuinta
Goodin
Grubb
Gutwein
E. Harris ⏏
T. Harris
Herrell
Hinkle
Hoy
Kersey
Klinker
Knollman
Koch
Kuzman ⏏
L. Lawson
Lehe
Leonard
Lutz
Mays
McClain
Micon
Moses ⏏
Murphy
Neese
Niezgodski
Noe
Orentlicher
Oxley ⏏
Pelath ⏏
Pflum
Pierce
Pond
Porter
Reske
Richardson
Ripley
Robertson
Ruppel
Saunders
M. Smith
V. Smith
Soliday
Stemler
Stevenson
Stilwell ⏏
Stutzman
Summers
Thomas
Thompson
Tincher
Torr
Turner
Tyler
Ulmer
VanHaaften
Walorski
Welch
Whetstone
Wolkins
Mr. Speaker

Roll Call 429: 93 present; 7 excused. The Speaker announced a quorum in attendance. [*NOTE*: ⏏ *indicates those who were excused*.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, April 5, 2007, at 10:00 a.m.

STEMLER

Motion prevailed.

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 270

Representative Grubb called down Engrossed Senate Bill 270 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor fuel and to make an appropriation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 430: yeas 86, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 316

Representative C. Brown called down Engrossed Senate Bill 316 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 431: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

Engrossed Senate Bill 320

Representative Klinker called down Engrossed Senate Bill 320 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 432: yeas 52, nays 39. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 346

Representative Porter called down Engrossed Senate Bill 346 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 433: yeas 89, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 461

Representative Reske called down Engrossed Senate Bill 461 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 434: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Engrossed Senate Bill 524

Representative Mays called down Engrossed Senate Bill 524 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 435: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representatives E. Harris, Pelath, and Stilwell, who had been excused, were present.

Engrossed Senate Bill 208

Representative C. Brown called down Engrossed Senate Bill 208 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 436: yeas 93, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

The Speaker Pro Tempore yielded the gavel to the Speaker.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Engrossed Senate Bill 29, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 49, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-12-17.8, AS AMENDED BY P.L.154-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17.8. (a) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year and who remains eligible for the deduction in the following year is not required to file a statement to apply for the deduction in the following year.

(b) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year and who becomes ineligible for the deduction in the following year shall notify the auditor of the county in which the real property, mobile home, or manufactured home for which the individual claims the deduction is located of the individual's ineligibility before June 11 of the year in which the individual becomes ineligible.

(c) The auditor of each county shall, in a particular year, apply a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter to each individual who received the deduction in the preceding year unless the auditor determines that the individual is no longer eligible for the deduction.

(d) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the deduction in the following year is not required to file a statement to reapply for the deduction following the removal of the joint owner if:

(1) the individual is the sole owner of the property following the death of the individual's spouse;

(2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or

(3) the individual is awarded sole ownership of the property in a divorce decree.

(e) A trust entitled to a deduction under section 9, 11, 13, 14, 16, or 17.4 of this chapter for real property owned by the trust and occupied by an individual in accordance with section 17.9 of this chapter is not required to file a statement to apply for the deduction, if:

(1) the individual who occupies the real property receives a deduction provided under section 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year; and

(2) the trust remains eligible for the deduction in the following year.

SECTION 2. IC 6-1.1-12-17.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17.9. A trust is entitled to a deduction under section 9, 11, 13, 14, 16, or 17.4 of this chapter for real property owned by the trust and occupied by an individual if the county auditor determines that the individual:**

(1) upon verification in the body of the deed or otherwise, has a beneficial interest in the trust;

(2) otherwise qualifies for the deduction; and

(3) would be considered the owner of the real property under IC 6-1.1-1-9(f).".

Page 4, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 5. IC 29-1-7-15.1, AS AMENDED BY P.L.238-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.1. (a) When

it has been determined that a decedent died intestate and letters of administration have been issued upon the decedent's estate, no will shall be probated unless it is presented for probate before the court decrees final distribution of the estate.

(b) No real estate situate in Indiana of which any person may die seized shall be sold by the executor or administrator of the deceased person's estate to pay any debt or obligation of the deceased person, which is not a lien of record in the county in which the real estate is situate, or to pay any costs of administration of any decedent's estate, unless letters testamentary or of administration upon the decedent's estate are taken out within five (5) months after the decedent's death.

(c) The title of any real estate or interest therein purchased in good faith and for a valuable consideration from the heirs of any person who died seized of the real estate shall not be affected or impaired by any devise made by the person of the real estate so purchased, unless:

(1) the will containing the devise has been probated and recorded in the office of the clerk of the court having jurisdiction within five (5) months after the death of the testator; or

(2) an action to contest the will's validity is commenced within the time provided by law and, as a result, the will is ultimately probated.

(d) The will of the decedent shall not be admitted to probate unless the will is presented for probate ~~not more than~~ **before the latest of the following dates:**

(1) Three (3) years after the individual's death.

(2) Sixty (60) days after the entry of an order denying the probate of a will of the decedent previously offered for probate and objected to under section 16 of this chapter.

(3) Sixty (60) days after entry of an order revoking probate of a will of the decedent previously admitted to probate and contested under section 17 of this chapter.

However, in the case of an individual presumed dead under IC 29-2-5-1, the three (3) year period commences with the date the individual's death has been established by appropriate legal action.

SECTION 6. IC 29-1-7.5-3, AS AMENDED BY P.L.61-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Subject to section 2(d) of this chapter, a personal representative who administers an estate under this chapter may do the following without order of the court:

(1) Retain assets owned by the decedent pending distribution or liquidation including those in which the representative is personally interested or which are otherwise improper for trust investment.

(2) Receive assets from fiduciaries or other sources.

(3) Perform, compromise, or refuse performance of the decedent's contracts that continue as obligations of the estate, as the personal representative may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative, among other possible courses of action, may:

(A) execute and deliver a deed of conveyance for cash payment of all sums remaining due or the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land; or

(B) deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement.

(4) Satisfy written charitable pledges of the decedent irrespective of whether the pledges constituted binding obligations of the decedent or were properly presented as claims, if in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances.

(5) If funds are not needed to meet debts and expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including moneys received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements, or other prudent investments which would be reasonable for use by trustees generally.

(6) Acquire or dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset.

(7) Make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, raze existing or erect new party walls or buildings.

(8) Subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; or adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration.

(9) Enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration.

(10) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement.

(11) Abandon property when, in the opinion of the personal representatives, it is valueless, or is so encumbered, or is in condition that it is of no benefit to the estate.

(12) Vote stocks or other securities in person or by general or limited proxy.

(13) Pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims.

(14) Hold a security in the name of a nominee or in other form without disclosure of the interest of the estate but the personal representative is liable for any act of the nominee in connection with the security so held.

(15) Hold, manage, safeguard, and control the estate's real and personal property, insure the assets of the estate against damage, loss, and liability, and insure the personal representative personally against liability as to third persons.

(16) Borrow money with or without security to be repaid from the estate assets or otherwise and advance money for the protection of the estate.

(17) Effect a fair and reasonable compromise with any debtor or obligor, or extend, renew, or in any manner modify the terms of any obligation owing to the estate. If the personal representative holds a mortgage, pledge, or other lien upon property of another person, the personal representative may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien.

(18) Pay taxes, assessments, compensation of the personal representative, and other expenses incident to the administration of the estate.

(19) Hold an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or another domestic or foreign form of business or enterprise.

(20) Continue a business.

(21) Take any action that may be taken by shareholders, partners, members, or property owners, including contributing additional capital to or merging, consolidating, reorganizing, recapitalizing, dissolving, or otherwise changing the form of the business organization.

(22) Allocate items of income or expense to either estate

income or principal, as permitted or provided by IC 30-2-14.

(23) Employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of the personal representative's administrative duties; act without independent investigation upon their recommendations; and instead of acting personally, employ one (1) or more agents to perform any act of administration, whether or not discretionary.

(24) Do any of the following concerning a claim or demand made in favor of or against the estate for the protection of the estate and of the personal representative in the performance of the personal representative's duties:

(A) Release, assign, settle, compromise, or contest the claim or demand.

(B) Participate in mediation or submit to arbitration to resolve any dispute concerning the claim or demand.

(C) Extend the time for payment of the claim or demand.

(D) Abandon the claim or demand.

(25) Sell, mortgage, or lease any real or personal property of the estate or any interest therein for cash, credit, or for part cash and part credit, and with or without security for unpaid balances.

(26) Select a settlement option under any qualified or nonqualified benefit or retirement plan, annuity, or life insurance payable to the estate, and take appropriate action to collect the proceeds.

(27) Inspect and investigate property held, directly or indirectly, by the personal representative for the purpose of:

(A) determining the application of environmental law with respect to the property; and

(B) doing the following:

(i) Take action to prevent, abate, or remedy an actual or a potential violation of an environmental law affecting the property, whether taken before or after the assertion of a claim or the initiation of governmental enforcement by federal, state, or local authorities.

(ii) Compromise claims against the estate that may be asserted for an alleged violation of environmental law.

(iii) Pay the expense of inspection, review, abatement, or remedial action to comply with the environmental law.

(28) Distribute assets of the estate upon such terms as the personal representative may impose. To the extent practicable, taking into account the decedent's probable intention, the power to distribute assets includes the power to:

(A) pay an amount to a distributee who is under a legal disability or whom the personal representative reasonably believes to be incapacitated by:

(i) paying the amount directly to the distributee or applying the amount for the distributee's use and benefit;

(ii) paying the amount to the guardian appointed for the distributee;

(iii) paying the amount to a custodian under the Indiana Uniform Transfers to Minors Act (IC 30-2-8.5) or a custodial trustee under the Uniform Custodial Trust Act (IC 30-2-8.6); or

(iv) paying the amount to the trustee of a trust established by the decedent or by the personal representative under subsection (b); and

(B) make distributions of estate income and principal in kind, in cash, or partly in each, in shares of differing composition.

(29) Perform any other act necessary or appropriate to administer the estate.

(b) A personal representative who administers an estate under this chapter may, without court order, establish a trust to make distributions to a distributee who is under a legal disability or whom the personal representative reasonably believes is incapacitated. In establishing a trust under this subsection, a personal representative may exercise:

(1) the authority given to custodians under the Indiana Uniform Transfers to Minors Act (IC 30-2-8.5) to create a trust that satisfies the requirements of Section ~~2503~~ **2503(c)** of the Internal Revenue Code and the regulations adopted under that Section; or

(2) the authority given to an attorney in fact under IC 30-5-5-15(a)(3) to establish a revocable trust for the benefit of a principal.

SECTION 7. IC 29-1-8-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. (a) This section does not apply to the following:**

(1) Real property owned by a decedent.

(2) The contents of a safe deposit box rented by a decedent from a financial institution organized or reorganized under the law of any state (as defined in IC 28-2-17-19) or the United States.

(b) After the death of a decedent, a person:

(1) indebted to the decedent; or

(2) having possession of:

(A) personal property;

(B) an instrument evidencing a debt;

(C) an obligation;

(D) a chose in action;

(E) a life insurance policy;

(F) a bank account; or

(G) intangible property, including annuities, fixed income investments, mutual funds, cash, money market accounts, or stocks;

belonging to the decedent;

shall furnish the date of death value of the indebtedness or property and the names of the known beneficiaries of property described in this subsection to a person who presents an affidavit containing the information required by subsection (c).

(c) An affidavit presented under subsection (b) must state:

(1) the name, address, Social Security number, and date of death of the decedent;

(2) the name and address of the affiant and the relationship of the affiant to the decedent;

(3) that the disclosure of the date of death value is necessary to determine whether the decedent's estate can be administered under the summary procedures set forth in this chapter; and

(4) that the affiant is answerable and accountable for the information received to the decedent's personal representative, if any, or to any other person having a superior right to the property or indebtedness.

(d) A person presented with an affidavit under subsection (b) must provide the requested information within three (3) business days after being presented with the affidavit.

(e) A person who acts in good faith reliance on an affidavit presented under subsection (b) is immune from liability for the disclosure of the requested information.

(f) A person who:

(1) is presented with an affidavit under subsection (b); and

(2) refuses to provide the requested information within three (3) business days after being presented with the affidavit;

is liable to the estate of the decedent.

(g) A plaintiff who prevails in an action to compel a person presented with an affidavit under subsection (b) to accept the authority of the affiant or in an action for damages arising from a person's refusal to provide the information requested in an affidavit presented under subsection (b) is entitled to recover the following:

(1) Three (3) times the amount of the actual damages.

(2) Attorney's fees and court costs.

(3) Prejudgment interest on the actual damages from the date the affidavit was presented to the person.

SECTION 8. IC 29-1-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) If it appears that the value of a decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of:

(1) ~~twenty-five~~ **fifty** thousand dollars ~~($25,000),~~ **($50,000);**

(2) the costs and expenses of administration; and

(3) reasonable funeral expenses;

the personal representative or a person acting on behalf of the distributees, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled to it and file a closing statement as provided in section 4 of this chapter.

(b) If an estate described in subsection (a) includes real property, an affidavit may be recorded in the office of the recorder in the county in which the real property is located. The affidavit must contain the following:

(1) The legal description of the real property.

(2) The following statement: "It appears that the decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of the following: ~~twenty-five~~ **fifty** thousand dollars ~~($25,000),~~ **($50,000),** the costs and expenses of administration, and reasonable funeral expenses.".

(3) The name of each person entitled to at least a part interest in the real property as a result of a decedent's death, the share to which each person is entitled, and whether the share is a divided or undivided interest.

(4) A statement which explains how each person's share has been determined.

SECTION 9. IC 29-1-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative or a person acting on behalf of the distributees may close an estate administered under the summary procedures of section 3 of this chapter by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:

(1) to the best knowledge of the personal representative or person acting on behalf of the distributees the value of the gross probate estate, less liens and encumbrances, did not exceed the sum of:

~~(A) the allowance, if any, provided by IC 29-1-4-1,~~

(A) fifty thousand dollars ($50,000);

(B) the costs and expenses of administration; and

(C) reasonable funeral expenses;

(2) the personal representative or person acting on behalf of the distributees has fully administered the estate by disbursing and distributing it to the persons entitled to it; and

(3) the personal representative or person acting on behalf of the distributees has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom ~~he~~ **the personal representative or person acting on behalf of the distributees** is aware and has furnished a full account in writing of ~~his~~ **the** administration to the distributees whose interests are affected.

(b) If no actions, claims, objections, or proceedings involving the personal representative or person acting on behalf of the distributees are filed in the court within three (3) months after the closing statement is filed, the appointment of the personal representative or the duties of the person acting on behalf of the distributees terminate.

(c) A closing statement filed under this section has the same effect as one (1) filed under IC 29-1-7.5-4.

(d) A copy of any affidavit recorded under section 3(b) of this chapter must be attached to the closing statement filed under this section.

SECTION 10. IC 29-1-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. Every personal representative shall have a right to **take,** and shall take, possession of all the real and personal property of the decedent. ~~other than allowances under IC 29-1-4-1. He~~ **The personal representative:**

(1) shall pay the taxes and collect the rents and earnings thereon until the estate is settled or until delivered by order of the court to the distributees; ~~He~~

(2) shall keep in tenantable repair the buildings and fixtures under ~~his~~ **the personal representative's** control; ~~and~~

(3) may protect the ~~same~~ **buildings and fixtures under the personal representative's control** by insurance; ~~He~~ **and**

(4) may maintain an action:

(A) for the possession of real property; or

(B) to determine the title to ~~the same.~~ **real property.**".

Page 6, after line 42, begin a new paragraph and insert:

"SECTION 14. IC 29-3-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Unless the protected person has been adjudicated an incapacitated person, the court shall terminate the guardianship of a minor upon:

(1) the minor's attaining eighteen (18) years of age; or

(2) the minor's death.

The court may terminate the guardianship of a minor upon the minor's adoption or marriage.

(b) The court shall terminate the guardianship of an incapacitated person upon:

(1) adjudication by the court that the protected person is no longer an incapacitated person; or

(2) the death of the protected person.

(c) The court may terminate any guardianship if:

(1) the guardianship property does not exceed the value of three thousand five hundred dollars ($3,500);

(2) the guardianship property is reduced to three thousand five hundred dollars ($3,500);

(3) the domicile or physical presence of the protected person is changed to another state and a guardian has been appointed for the protected person and the protected person's property in that state; or

(4) the guardianship is no longer necessary for any other reason.

(d) When a guardianship terminates otherwise than by the death of the protected person, the powers of the guardian cease, except that the guardian may pay the claims and expenses of administration that are approved by the court and exercise other powers that are necessary to complete the performance of the guardian's trust, including payment and delivery of the remaining property for which the guardian is responsible to:

(1) the protected person; ~~or~~

(2) in the case of an unmarried minor, to a person having care and custody of the minor with whom the minor resides;

(3) a trust approved by the court, including a trust created by the guardian, in which:

(A) the protected person is the sole beneficiary of the trust; and

(B) the terms of the trust satisfy the requirements of Section 2503(c) of the Internal Revenue Code and the regulations under that Section;

(4) a custodian under the Uniform Transfers to Minors Act (IC 30-2-8.5); or

(5) another responsible person as the court orders.

(e) When a guardianship terminates by reason of the death of the protected person, the powers of the guardian cease, except that the guardian may pay the expenses of administration that are approved by the court and exercise other powers that are necessary to complete the performance of the guardian's trust and may deliver the remaining property for which the guardian is responsible to the protected person's personal representative or to a person who presents the guardian with an affidavit under IC 29-1-8-1 or IC 29-2-1-2. If approved by the court, the guardian may pay directly the following:

(1) Reasonable funeral and burial expenses of the protected person.

(2) Reasonable expenses of the protected person's last illness.

(3) The protected person's federal and state taxes.

(4) Any statutory allowances payable to the protected person's surviving spouse or surviving children.

(5) Any other obligations of the protected person.

SECTION 15. IC 30-2-8.5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) A personal representative or trustee may make an irrevocable transfer under section 24 of this chapter to a custodian for the benefit of a minor as authorized in the governing will or trust.

(b) If the testator or settlor has nominated a custodian under section 18 of this chapter to receive the custodial property, the transfer shall be made to that person.

(c) If the testator or settlor has not nominated a custodian under section 18 of this chapter, or a person nominated as custodian dies before the transfer or is unable, declines, or is ineligible to serve, the personal representative or the trustee shall designate the custodian from among those eligible to serve as custodian for property of that kind under section 24(a) of this chapter. **The personal representative or trustee may be designated as custodian under this subsection if the personal representative or trustee is eligible to serve as custodian for property of that kind under section 24(a) of this chapter.**

SECTION 16. IC 30-2-8.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) A personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor under section 24 of this chapter in the absence of a will or under a will or trust that does not contain an authorization to do so. **The personal representative or trustee may also serve as the custodian of the transferred property if the personal representative or trustee is qualified under section 24 of this chapter.**

(b) A guardian may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor under section 24 of this chapter. **The guardian may also serve as the custodian of the transferred property if the guardian is qualified under section 24 of this chapter.**

(c) A transfer under subsection (a) or (b) may be made only if:

(1) the personal representative, trustee, or guardian considers the transfer to be in the best interest of the minor;

(2) the transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument; and

(3) the transfer is authorized by the court if the property transferred exceeds ten thousand dollars ($10,000) in value.

SECTION 17. IC 30-2-8.5-29, AS AMENDED BY P.L.238-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 29. (a) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to:

(1) the duty or ability of the custodian personally or of any other person to support the minor; or

(2) any other income or property of the minor that may be applicable or available for the support of the minor.

(b) At any time and without a court order, a custodian may transfer part or all of the custodial property to a trust, including a trust created by the custodian, in which:

(1) the minor is the sole beneficiary of the trust; and

(2) the terms of the trust satisfy the requirements of Section ~~2503~~ **2503(c)** of the Internal Revenue Code and the regulations under that section.

The transfer terminates the custodianship of the property to the extent of the transfer.

(c) On petition of an interested person or the minor if the minor is at least fourteen (14) years of age, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit as much of the custodial property as the court considers advisable for the use and benefit of the minor.

(d) A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect an obligation of a person to support the minor.

SECTION 18. IC 30-4-4-5, AS ADDED BY P.L.238-2005, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A trustee may furnish to a person other than a beneficiary a certification of trust instead of a copy of the trust instrument. The certification of trust must contain the following information:

(1) That the trust exists and the date the trust instrument was executed.

(2) The identity of the settlor.

(3) The identity and address of the currently acting trustee.

(4) The powers of the trustee.

(5) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust.

(6) The authority of cotrustees to sign or otherwise authenticate and whether all or less than all the cotrustees are required in order to exercise the powers of the trustee.

~~(7) The trust's taxpayer identification number.~~

~~(8)~~ **(7)** The manner of taking title to trust property.

(b) A certification of trust may be signed or authenticated by any trustee.

(c) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(d) A certification of trust may contain the dispositive terms of a trust.

(e) A recipient of a certification of trust may require the trustee to furnish copies of excerpts from the original trust instrument and later amendments that:

(1) designate the trustee; and

(2) confer on the trustee the power to act in a pending transaction in which the recipient has an interest.

(f) A person who acts in reliance on a certification of trust without knowledge that the representations contained in the certification of trust are incorrect:

(1) is not liable to any person for acting in reliance on the certification of trust; and

(2) may assume without inquiry the existence of the facts contained in the certification of trust.

Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying on the certification.

(g) A person who in good faith enters into a transaction in reliance on a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(h) A person making a demand for the trust instrument in addition to a certification of trust or excerpts from the original trust instrument is liable for damages if the court determines that

a person did not act in good faith in demanding the trust instrument.

(i) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

SECTION 19. IC 32-38 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

ARTICLE 38. TITLE INSURANCE AND TRANSFERS TO CERTAIN TRUSTS

Chapter 1. Application

Sec. 1. This article applies to a policy or commitment issued after June 30, 2007.

Chapter 2. Definitions

Sec. 1. The definitions in IC 27-7-3-2 apply throughout this article.

Sec. 2. "Commitment" means a commitment for title insurance.

Sec. 3. "Estate" has the meaning set forth in IC 29-1-1-3.

Sec. 4. "Named insured owner" means the person identified in a policy or commitment as the insured owner or the proposed insured owner of an interest in real property that is insured or proposed to be insured under the policy or commitment.

Sec. 5. "Personal representative" has the meaning set forth in IC 29-1-1-3.

Sec. 6. "Policy" means a title insurance policy.

Sec. 7. "Power of appointment" means a power of appointment described in IC 32-17-6.

Sec. 8. "Trust" has the meaning set forth in IC 30-4-1-1.

Chapter 3. Transfers to Certain Trusts

Sec. 1. The trustee of a trust is considered to be the insured owner under a policy or commitment that insures or proposes to insure an interest in real property that is transferred to the trust if:

(1) the transferee of the interest in real property is the trustee of the trust, the trust was established by the named insured owner, and the transferor is the named insured owner;

(2) the named insured owner reserves the right to amend or revoke the trust during the named insured owner's lifetime;

(3) the named insured owner is a natural person; and

(4) the transfer of the interest in real property is made by the named insured owner personally or by:

(A) the named insured owner's attorney in fact;

(B) the named insured owner's guardian or other similar person in a guardianship or protective proceeding in which the named insured owner is an incapacitated or a protected person; or

(C) the personal representative of the deceased named insured owner's estate under the terms and conditions of the named insured owner's last will and testament;

even if the named insured owner transfers the interest in real property to the trustee described in this section after the effective date of the policy or commitment.

SECTION 20. IC 34-30-2-122.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 122.7. IC 29-1-8-1.5 (Concerning a person who relies on an affidavit requesting information necessary to determine whether an estate can be summarily administered).**

SECTION 21. [EFFECTIVE JULY 1, 2007] **IC 29-1-8-3 and IC 29-1-8-4, both as amended by this act, apply to the estate of an individual who dies after June 30, 2007.**".

(Reference is to SB 49 as printed January 19, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

L. LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Engrossed Senate Bill 105, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-5-28 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 28. Joint Study Committee on Mass Transit and Transportation Alternatives

Sec. 1. As used in this chapter, "committee" refers to the joint study committee on mass transit and transportation alternatives.

Sec. 2. The joint study committee on mass transit and transportation alternatives is established.

Sec. 3. The committee has the following membership:

(1) The members of the standing senate committee on homeland security, transportation, and veterans affairs.

(2) The members of the house of representatives standing committee on transportation.

Sec. 4. The chairs of the standing committees specified in section 3(1) and 3(2) of this chapter shall serve as co-chairs of the committee.

Sec. 5. The committee shall do the following:

(1) Review Indiana department of transportation studies regarding mass transit that have been conducted by the department.

(2) Review federal legislative activity regarding development and expansion of mass transit as well as revenue streams on the federal level.

(3) Review mass transit initiatives of other states.

Sec. 6. The committee shall report on and make recommendations concerning the following issues:

(1) The need to use mass transportation to mitigate congestion.

(2) Ways to address the demand for workforce transportation that is reliable and secure.

(3) Ways to eliminate barriers to investment in mass transportation created by the current structure of transportation funding.

(4) Existing barriers to private investment in mass transportation facilities, including tax inequities.

(5) Effective ways of leveraging funding under federal programs to supplement state funding of mass transportation.

(6) The relationship between land use and investment in mass transportation infrastructure.

(7) The role that mass transportation plays in promoting economic growth, improving the environment, and sustaining the quality of life.

Sec. 7. The legislative service agency and the Indiana department of transportation shall provide support staff for the committee.

Sec. 8. The committee shall operate under the policies governing study committees adopted by the legislative council.

SECTION 2. IC 8-14-14-5, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The major moves construction fund is established for the purpose of:

(1) funding projects, **other than passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4),** under IC 8-15.7 or IC 8-15-3.

(2) funding other projects in the department's transportation plan; and

(3) funding distributions under sections 6 and 7 of this chapter.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of the following:

(1) Distributions to the fund from the toll road fund under IC 8-15.5-11.

(2) Distributions to the fund from the next generation trust fund under IC 8-14-15.

(3) Appropriations to the fund.

(4) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.

(5) Revenues arising from:

(A) a tollway under IC 8-15-3 or IC 8-23-7-22; or

(B) a toll road under IC 8-15-2 or IC 8-23-7-23;

that the department designates as part of, and deposits in, the fund.

(6) Payments, **other than payments for passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4),** made to the authority or the department from operators under IC 8-15.7.

(7) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

SECTION 3. IC 8-14-14-7, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. **(a)** In addition to any distributions required by section 6 of this chapter, money in the fund may be used for any of the following purposes:

(1) **Except as provided in subsection (b),** the payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15-2, IC 8-15-3, IC 8-15.5, or IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.5 or IC 8-15.7, including establishing reserves.

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

(3) Distributions to the treasurer of state for deposit in the state highway fund, for the funding of any project in the department's transportation plan.

(b) Money in the fund may not be used for the payment of an obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with a public-private agreement under IC 8-15.7 concerning a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).

SECTION 4. IC 8-14-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 17. Alternative Transportation Construction Fund

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.

Sec. 3. As used in this chapter, "fund" refers to the alternative transportation construction fund established by section 4 of this chapter.

Sec. 4. (a) The alternative transportation construction fund is established for the purpose of:

(1) funding projects under IC 8-15.7 for passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4); and

(2) funding distributions under section 5 of this chapter.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of the following:

(1) Appropriations to the fund.

(2) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.

(3) Payments made to the authority or the department from operators under IC 8-15.7 concerning passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4).

(4) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

Sec. 5. Money in the fund may be used for any of the following purposes:

(1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.7 for a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

SECTION 5. IC 8-15.7-1-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) This article contains full and complete authority for agreements and leases with private entities to carry out the activities described in this article. Except as provided in this article, no procedure, proceeding, publication, notice, consent, approval, order, or act by the authority, the department, or any other state or local agency or official is required to enter into an agreement or lease, and no law to the contrary affects, limits, or diminishes the authority for agreements and leases with private entities, except as provided by this article.

(b) Notwithstanding any other law, the department, the

authority, or an operator may not carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

(1) Issuing a request for proposals for, or entering into, a public-private agreement concerning a project other than Interstate Highway 69 between Interstate Highway 465 and Interstate Highway 64.

(2) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Imposing user fees on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

(c) Notwithstanding any other law, neither the department nor the authority may enter into a public-private agreement concerning a project consisting of a passenger or freight railroad system described in IC 8-15.7-2-14(a)(4) unless the general assembly enacts a statute authorizing such an agreement. However, this subsection does not prohibit the department from:

(1) conducting preliminary studies that the department considers necessary to determine the feasibility of such a project; or

(2) issuing a request for qualifications or a request for proposals, or both, under IC 8-15.7-4 for such a project.

SECTION 6. IC 8-15.7-2-14, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. **(a)** Subject to IC 8-15.7-1-5, "project" means all or part of the following:

(1) A limited access facility (as defined in IC 8-23-1-28).

(2) A tollway.

(3) Roads and bridges.

(4) Passenger and freight railroad systems, including:

(A) the costs of environmental impact studies;

(B) property, equipment, and appurtenances necessary to operate a railroad, including lines, routes, roads, rights-of-way, easements, licenses, permits, track upgrades, rail grade crossings, locomotives, passenger cars, freight cars, and other railroad cars of any type or class; and

(C) other costs the department determines are necessary to develop a passenger or freight railroad system in Indiana.

~~(4)~~ **(5)** All or part of a bridge, tunnel, overpass, underpass, interchange, structure, ramp, access road, service road, entrance plaza, approach, tollhouse, utility corridor, toll gantry, rest stop, service area, or administration, storage, or other building or facility, including temporary facilities and buildings or facilities and structures that will not be tolled, that the department determines is appurtenant, necessary, or desirable for the development, financing, or operation of the facilities described in subdivisions (1) ~~(2), and (3).~~ **through (4).**

~~(5)~~ **(6)** An improvement, betterment, enlargement, extension, or reconstruction of all or part of any of the facilities described in this section, including a nontolled part, that is separately designated by name or number.

(b) The term does not include a passenger railroad system that is operated by a commuter transportation district established under IC 8-5-15.

SECTION 7. IC 8-15.7-5-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. To the extent that the department receives any payment or compensation under the public-private agreement other than repayment of a loan or grant or reimbursement for services provided by the department to the operator, the payment or compensation shall be distributed at the direction of the department to the:

(1) major moves construction fund established under IC 8-14-14;

(2) department for deposit in the state highway fund established by IC 8-23-9-54; ~~or~~

(3) alternative transportation construction fund established under IC 8-14-17; or

~~(3)~~ **(4)** operator or the authority for debt reduction.

SECTION 8. [EFFECTIVE JULY 1, 2007] **(a) The definitions in IC 8-15.7-2, as amended by this act, apply throughout this SECTION.**

(b) The department shall submit an annual report to the legislative council in an electronic format under IC 5-14-6. The report under this subsection must include detailed information on the department's efforts concerning:

(1) the development;

(2) the financing;

(3) the operation; or

(4) any combination of the development, financing, and operation;

of passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4), as amended by this act, through public-private agreements.

(c) This SECTION expires July 1, 2012.

SECTION 9. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "department" refers to the Indiana department of transportation established by IC 8-23-2-1.**

(b) Before December 1, 2007, the department shall commission six (6) studies concerning mass transit in each of the following regions:

(1) Central Indiana, consisting of the following counties:

(A) Boone.
(B) Delaware.
(C) Hamilton.
(D) Hancock.
(E) Hendricks.
(F) Johnson.
(G) Madison.
(H) Marion.
(I) Monroe.
(J) Morgan.
(K) Shelby.

(2) Northwest Indiana.

(3) Northeast Indiana.

(4) South central Indiana, including Monroe County.

(5) Southwest Indiana.

(6) Southeast Indiana.

(c) Each of the studies specified in subsection (b) must analyze the following aspects of mass transit systems:

(1) The need to use public transportation to mitigate congestion on a statewide basis.

(2) Ways to address the demand for workforce transportation that is reliable and secure.

(3) Ways to eliminate barriers to investment in public transportation created by the current structure of transportation funding.

(4) Existing barriers to private investment in public transportation facilities, including tax inequities.

(5) Effective ways of leveraging federal programs to supplement state funding of public transportation.

(6) The relationship between land use and investment in public transportation infrastructure on a statewide basis.

(7) The role that public transportation plays in promoting economic growth, improving the environment, and sustaining the quality of life.

(8) Policies required to develop a mass transportation system to support a growing population and the states

economy for the foreseeable future.

(9) Transit oriented development.

(10) Impact of mass transit on projected demographic patterns including age populations.

(11) Current and future commuter patterns in the identified counties.

(12) Current trends in mass transit on a statewide basis.

(13) A review of federal activities in the area of mass transit on a statewide basis.

(14) Funding options for pilot mass transit and alternative transit systems.

(d) The department shall require winning bidders for the studies required by subsection (b) to submit final reports by July 1, 2008.

(e) The department shall transmit the results of the studies required by subsection (b) to the public and, in an electronic format under IC 5-14-6, to the general assembly on or about July 1, 2008. If a winning bidder produces intermediate reports in the course of conducting a study, the department shall also transmit in a timely manner the results of those intermediate reports to the public, and in an electronic format under IC 5-14-6, to the general assembly and the governor.

(f) The department shall pay for the studies required by subsection (b) from money under the department's control, including money held in the following funds or accounts:

(1) Federal highway account.

(2) Federal transit account.

(3) State planning and research fund.

(4) State's portion of the public mass transit fund.

(g) This SECTION expires January 1, 2009.".

Page 1, line 4, delete "conduct" and insert "**commission**".

Page 1, line 8, after "Noblesville," delete "and".

Page 1, line 8, delete "Fishers;" and insert "**Fishers, Indianapolis, and Bloomington;**".

Renumber all SECTIONS consecutively.

(Reference is to SB 105 as printed January 31, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 1.

AUSTIN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred Engrossed Senate Bill 171, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-39-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A provider may not charge a person for making and providing copies of medical records an amount greater than ~~provided in this chapter~~. **the amount set in rules adopted by the department of insurance under section 4 of this chapter.**

SECTION 2. IC 16-39-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) As used in this section, "department" refers to the department of insurance created by IC 27-1-1-1.

(b) ~~Notwithstanding sections 1 and 2 of this chapter,~~ The department may adopt rules under IC 4-22-2 to ~~adjust~~ **set** the amounts that may be charged for copying records under this chapter. In adopting rules under this section, the department shall consider the following factors relating to the costs of copying medical records:

(1) The following labor costs:

(A) Verification of requests.

(B) Logging requests.

(C) Retrieval.

(D) Copying.

(E) Refiling.

(2) Software costs for logging requests.

(3) Expense costs for copying.

(4) Capital costs for copying.

(5) Billing and bad debt expenses.

(6) Space costs.

SECTION 3. IC 20-12-22.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 22.3. Insurance Education Scholarship Fund

Sec. 1. As used in this chapter, "commission" refers to the state student assistance commission established by IC 20-12-21-4.

Sec. 2. As used in this chapter, "fund" refers to the insurance education scholarship fund established by section 5 of this chapter.

Sec. 3. As used in this chapter, "insurance student" means a student who studies or intends to study:

(1) insurance; or

(2) business with an emphasis on insurance.

Sec. 4. As used in this chapter,"state educational institution" has the meaning set forth in IC 20-12-0.5-1.

Sec. 5. (a) The insurance education scholarship fund is established to encourage and promote qualified individuals to pursue a career in insurance in Indiana.

(b) The fund consists of amounts deposited under IC 27-1-15.6-7.3.

Sec. 6. (a) The commission shall administer the fund.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from the investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) There is annually appropriated to the commission all money in the fund to carry out the purposes of this chapter.

Sec. 7. (a) The money in the fund shall be used to provide annual scholarships to insurance students who qualify under section 9 of this chapter. The commission shall determine the amount of money to be allocated from the fund for scholarships under this chapter.

(b) A scholarship awarded under this chapter may be used only for the payment of tuition or fees that are:

(1) approved by the state educational institution that awards the scholarship; and

(2) not otherwise payable under any other scholarship or form of financial assistance specifically designated for tuition or fees.

(c) Subject to section 8(c) of this chapter, each scholarship awarded under this chapter is renewable under section 9 of this chapter for a total number of terms that does not exceed eight (8) full-time semesters (or the equivalent) or twelve (12) full-time quarters (or the equivalent).

Sec. 8. (a) The commission for higher education shall provide the commission with the most recent information concerning the number of insurance students at each state educational institution.

(b) The commission shall allocate the available money from the fund to each state educational institution that has:

(1) an insurance program; or

(2) a business program with an emphasis on insurance;

in proportion to the number of insurance students enrolled

at each state educational institution based upon the information received by the commission under subsection (a).

(c) Each state educational institution shall determine which of the state educational institution's insurance students who apply qualify under section 9 of this chapter. In addition, the state educational institution shall consider the need of the applicant when awarding scholarships under this chapter.

(d) The state educational institution may not grant a scholarship renewal to an insurance student for an academic year that ends later than six (6) years after the date on which the insurance student received the insurance student's initial scholarship under this chapter.

(e) Any funds that:

(1) are allocated to a state educational institution under section 8(b) of this chapter; and

(2) are not used for scholarships under this chapter;

shall be returned to the commission for reallocation by the commission to any other eligible state educational institution in need of additional funds.

Sec. 9. To qualify for a scholarship or a scholarship renewal from the fund, an insurance student must:

(1) be admitted to an approved state educational institution as a full-time or part-time insurance student; and

(2) meet the qualifications established by the commission under section 11 of this chapter.

Sec. 10. (a) The commission shall maintain complete and accurate records in administering the fund, including records concerning the scholarships awarded under this chapter.

(b) Each state educational institution shall provide the commission with information concerning the following:

(1) The awarding of scholarships under this chapter.

(2) The academic progress made by each recipient of a scholarship under this chapter.

(3) Other pertinent information requested by the commission.

Sec. 11. The commission shall adopt rules under IC 4-22-2 necessary to carry out this chapter, including rules establishing qualifications for recipients of scholarships and scholarship renewals under this chapter.

SECTION 4. IC 27-1-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) Except as provided in subsection ~~(g),~~ **(h),** the commissioner shall collect the following filing fees:

Document	Fee
Articles of incorporation	$ 350
Amendment of articles of incorporation	$ 10
Filing of annual statement and consolidated statement	$ 100
Annual renewal of company license fee	$ 50
Withdrawal of certificate of authority	$ 25
Certified statement of condition	$ 5
Any other document required to be filed by this article	$ 25

The commissioner shall deposit fees collected under this subsection into the department of insurance fund established by IC 27-1-3-28.

(b) The commissioner shall collect a fee of ten dollars ($10) each time process is served on the commissioner under this title.

(c) The commissioner shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

Per page for copying	As determined by the commissioner but not to exceed actual cost
For the certificate	$10

(d) Each domestic and foreign insurer **and each health maintenance organization** shall remit annually to the commissioner for deposit into the department of insurance fund established by ~~IC 27-1-3-28~~ ~~three hundred fifty~~ **section 28 of this chapter one thousand** dollars ~~($350)~~ **($1,000)** as an internal audit fee. All assessment insurers, farm mutuals, **and** fraternal benefit societies ~~and health maintenance organizations~~ shall remit to the commissioner for deposit into the department of insurance fund ~~one~~ **two** hundred **fifty** dollars ~~($100)~~ **($250)** annually as an internal audit fee.

(e) Beginning July 1, 1994, each insurer shall remit to the commissioner for deposit into the department of insurance fund established by ~~IC 27-1-3-28~~ **section 28 of this chapter** a fee of thirty-five dollars ($35) for each policy, rider, ~~and~~ **rule, rate, or** endorsement filed with the state, **including subsequent filings. Except as provided in subsection (f), each policy, rider, rule, rate, or endorsement that is filed as part of a particular product filing or in association with a particular product filing is an individual filing subject to the fee under this subsection.** However, ~~each policy, rider, and endorsement filed as part of a particular product filing and associated with that product filing shall be considered to be a single filing and subject only to one (1) thirty-five dollar ($35) fee.~~ **the total amount of fees paid under this subsection by each insurer for a particular product filing may not exceed one thousand dollars ($1,000).**

(f) Beginning July 1, 2009, a policy, rider, rule, rate, or endorsement that is filed as part of a particular product filing or in association with a particular product filing for a commercial product described in:

(1) Class 2(b), Class 2(c), Class 2(d), Class 2(e), Class 2(f), Class 2(g), Class 2(h), Class 2(i), Class 2(j), Class 2(k), Class 2(l), or Class 2(m) of IC 27-1-5-1; or

(2) Class 3 of IC 27-1-5-1;

is considered to be part of a single filing for which the insurer is subject only to one (1) thirty-five dollar ($35) fee under subsection (e).

~~(f)~~ **(g)** The commissioner shall pay into the state general fund by the end of each calendar month the amounts collected during that month under subsections ~~(a),~~ (b) and (c).

~~(g)~~ **(h)** The commissioner may not collect fees for quarterly statements filed under IC 27-1-20-33.

~~(h)~~ **(i)** The commissioner may adopt rules under IC 4-22-2 to provide for the accrual and quarterly billing of fees under this section.

SECTION 5. IC 27-1-3-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. (a) The department of insurance fund is established for the following purposes:

(1) To provide supplemental funding for the operations of the department of insurance.

(2) To pay the costs of hiring and employing staff.

(3) To provide staff salary differentials as necessary to equalize the average salaries and staffing levels of the department of insurance with the average salaries and staffing levels reported in the most recent Insurance Department Resources Report published by the National Association of Insurance Commissioners.

(4) To enable the department of insurance to maintain accreditation by the National Association of Insurance Commissioners.

(5) To carry out any other purpose determined necessary by the department of insurance to carry out the department's duties under this title.

(b) The fund shall be administered by the commissioner. The following shall be deposited in the department of insurance fund:

(1) Audit fees remitted by insurers to the commissioner under ~~IC 27-1-3-15(d).~~ **section 15(d) of this chapter.**

(2) Filing fees remitted by insurers to the commissioner under ~~IC 27-1-3-15(c).~~ **section 15(a) or 15(e) of this chapter.**

(3) Any other amounts remitted to the commissioner or the department that are required by rule or statute to be deposited into the department of insurance fund.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a particular fiscal year does not revert to the state general fund.

(f) There is annually appropriated to the department of insurance, for the purposes set forth in subsection (a), the entire amount of money deposited in the fund in each year.

SECTION 6. IC 27-1-12.7-10, AS AMENDED BY P.L.193-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. Notwithstanding any other provision of law:

(1) the commissioner has the sole authority to regulate the issuance and sale of funding agreements;

(2) a funding agreement is not considered a covered policy under IC 27-8-8-1(a) or IC 27-8-8-2.3(d); ~~and~~

(3) a claim for payments under a funding agreement must be treated as a loss claim described in Class 2 of IC 27-9-3-40; **and**

(4) assets supporting a funding agreement in a segregated asset account under section 8 of this chapter are subject to IC 27-9-3-40.5 and Class 1(c) of IC 27-1-5-1.

SECTION 7. IC 27-1-13-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16. (a) This section applies to a policy of insurance that:**

(1) covers first party loss to property located in Indiana; and

(2) insures against loss or damage to:

(A) real property consisting of not more than four (4) residential units, one (1) of which is the principal place of residence of the named insured; or

(B) personal property in which the named insured has an insurable interest and that is used within a residential dwelling for personal, family, or household purposes.

(b) An insurer that reduces, restricts, or removes, through a rider or an endorsement, coverage provided by a policy of insurance must provide, by United States mail, written notice to the policyholder of the changes to the policy. The written notice required by this subdivision must:

(A) be part of a document that is:

(i) separate from the endorsement or rider; and

(ii) at least eight and one half (8 1/2) by eleven (11) inches in size;

(B) be printed in at least 12 point type, 1 point leaded;

(C) consist of text that achieves a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner as provided by IC 27-1-26-6;

(D) identify the forms, provisions, or endorsements that are changed;

(E) indicate the name and contact information of:

(i) the servicing agent for the policy, if any; and

(ii) the insurer;

whom the policyholder may contact for assistance with any questions concerning the proposed policy changes; and

(F) indicate any premium adjustment caused by the reported changes and set forth any options available to the policyholder to repurchase the coverage that will be removed, restricted, or reduced.

(c) The outside of the envelope used to mail the notice required under subsection (b) must contain the following statement in at least 14 point type: "Coverage has been reduced, restricted, or removed from your policy.".

(d) The insurer bears the burden to prove that the policyholder was notified in accordance with this section.

(e) The commissioner may adopt rules under IC 4-22-2 to implement this section.

SECTION 8. IC 27-1-13-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17. (a) This section applies to a policy of insurance that:**

(1) covers first party loss to property located in Indiana; and

(2) insures against loss or damage to:

(A) real property consisting of not more than four (4) residential units, one (1) of which is the principal place of residence of the named insured; or

(B) personal property in which the named insured has an insurable interest and that is used within a residential dwelling for personal, family, or household purposes.

(b) A policy of insurance described in subsection (a) may not be issued, renewed, or delivered to any person in Indiana if the policy limits a policyholder's right to bring an action against an insurer to a period of less than two (2) years from the date of loss.

SECTION 9. IC 27-1-15.6-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7.3. (a) The commissioner may design or have designed an insurance producer certificate suitable for framing and display.**

(b) Upon request of an insurance producer, the commissioner may issue a certificate described in subsection (a).

(c) The commissioner may impose and collect a reasonable fee for a certificate issued under subsection (b). The commissioner shall deposit fees collected under this subsection into the insurance education scholarship fund established by IC 20-12-22.3.

(d) The commissioner shall establish guidelines to implement this section.

SECTION 10. IC 27-1-15.6-24.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 24.1. A licensed insurance producer may charge a reasonable fee for personal lines property and casualty insurance or services related to personal lines property and casualty insurance subject to the following requirements:**

(1) The amount of a fee and the basis for calculating a fee may not vary among personal lines insureds.

(2) The amount of a fee is subject to the approval of the commissioner.

SECTION 11. IC 27-1-15.6-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. (a) The department shall adopt rules under IC 4-22-2 to set fees for licensure under this chapter, IC 27-1-15.7, and IC 27-1-15.8.

(b) Insurance producer and limited lines producer license renewal fees are due every ~~four (4)~~ **two (2)** years. The fee charged by the department every ~~four (4)~~ **two (2)** years for a:

(1) resident license is forty dollars ($40); and

(2) nonresident license is ninety dollars ($90).

(c) Consultant renewal fees are due every twenty-four (24) months.

(d) Surplus lines producer renewal fees are due ~~annually.~~ **every two (2) years. The fee charged by the department every two (2) years for a:**

(1) resident license is eighty dollars ($80); and

(2) nonresident license is one hundred twenty dollars ($120).

(e) The commissioner may issue a duplicate license for any license issued under this chapter. The fee charged by the commissioner for the issuance of a duplicate:

(1) insurance producer license;

(2) surplus lines producer license;

(3) limited lines producer license; or

(4) consultant license;

may not exceed ten dollars ($10).

(f) A fee charged and collected under this section shall be deposited into the department of insurance fund established by IC 27-1-3-28.

SECTION 12. IC 27-1-15.7-2, AS AMENDED BY P.L.73-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as provided in subsection (b), to renew a license issued under IC 27-1-15.6:

(1) a resident insurance producer must complete at least ~~forty (40)~~ **twenty (20)** hours of credit in continuing education courses; and

(2) a resident limited lines producer must complete at least ~~ten (10)~~ **five (5)** hours of credit in continuing education courses.

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses that are related to the business of insurance.

(b) To renew a license issued under IC 27-1-15.6, a limited lines producer with a title qualification under IC 27-1-15.6-7(a)(8) must complete at least ~~fourteen (14)~~ **seven (7)** hours of credit in continuing education courses related to the business of title insurance with at least one (1) hour of instruction in a structured setting or comparable self-study in each of the following:

(1) Ethical practices in the marketing and selling of title insurance.

(2) Title insurance underwriting.

(3) Escrow issues.

(4) Principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 with a title qualification under IC 27-1-15.6-7(a)(8) may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses related to the business of title insurance or any aspect of real property law.

(c) The following insurance producers are not required to complete continuing education courses to renew a license under this chapter:

(1) A limited lines producer who is licensed without examination under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).

(2) A limited line credit insurance producer.

(3) An insurance producer who is at least seventy (70) years of age and has been a licensed insurance producer continuously for at least twenty (20) years immediately preceding the license renewal date.

(d) To satisfy the requirements of subsection (a) or (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

(1) after the effective date of the licensee's last renewal of a license under this chapter; or

(2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

(e) If an insurance producer receives qualification for a license in more than one (1) line of authority under IC 27-1-15.6, the insurance producer may not be required to complete a total of more than ~~forty (40)~~ **twenty (20)** hours of credit in continuing education courses to renew the license.

(f) Except as provided in subsection (g), a licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 4 of this chapter.

(g) A licensee who teaches a course approved by the commissioner under section 4 of this chapter shall receive continuing education credit for teaching the course.

(h) When a licensee renews a license issued under this chapter, the licensee must submit:

(1) a continuing education statement that:

(A) is in a format authorized by the commissioner;

(B) is signed by the licensee under oath; and

(C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements of this section; and

(2) any other information required by the commissioner.

(i) A continuing education statement submitted under subsection (h) may be reviewed and audited by the department.

(j) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

(k) A licensee who completes a continuing education course that:

(1) is approved by the commissioner under section 4 of this chapter;

(2) is held in a classroom setting; and

(3) concerns ethics;

shall receive continuing education credit for the number of hours for which the course is approved plus additional hours, not to exceed two (2) hours in a renewal period, equal to the number of hours for which the course is approved.

SECTION 13. IC 27-1-15.8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. ~~(a) During the period that a resident surplus lines producer's license is in effect, the licensee shall keep in force a bond in the penal sum of not less than twenty thousand dollars ($20,000) with an authorized corporate surety approved by the commissioner. The aggregate liability of the surety for any and all claims on a bond does not exceed the penal sum of the bond. A bond may not be terminated unless written notice of termination is provided by the surety to the licensee and the commissioner not less than thirty (30) days before termination. Upon termination of a resident license for which a bond was in effect, the commissioner shall notify the surety of the termination within ten (10) business days. All surety protection under this section inures to the benefit of the state of Indiana to assure the payment of all premium taxes.~~

~~(b) A resident surplus lines producer shall, at the time of an initial filing under subsection (c), file with the commissioner proof of the bond in the amount required under subsection (a). In each subsequent calendar year, the resident surplus lines producer shall file proof that the bond remains in effect. A subsequent filing under this subsection shall be made in conjunction with the annual filing required under subsection (c).~~

~~(c)~~ **(a)** In addition to all other charges, fees, and taxes that may be imposed by law, a surplus lines producer licensed under this chapter shall, on or before February 1 and August 1 of each year, collect from the insured and remit to the department for the use and benefit of the state of Indiana an amount equal to two and one-half percent (2 1/2%) of all gross premiums upon all policies and contracts procured by the surplus lines producer under the provisions of this section during the preceding six (6) month period ending December 31 and June 30, respectively. The declarations page of a policy referred to in this subsection must

itemize the amounts of all charges for taxes, fees, and premiums.

~~(d)~~ **(b)** A licensed surplus lines producer shall execute and file with the department of insurance on or before the twentieth day of each month an affidavit that specifies all transactions, policies, and contracts procured during the preceding calendar month, including:

(1) the description and location of the insured property or risk and the name of the insured;

(2) the gross premiums charged in the policy or contract;

(3) the name and home office address of the insurer whose policy or contract is issued, and the kind of insurance effected; and

(4) a statement that:

(A) the licensee, after diligent effort, was unable to procure from any insurer authorized to transact the particular class of insurance business in Indiana the full amount of insurance required to protect the insured; and

(B) the insurance placed under this chapter is not placed for the purpose of procuring it at a premium rate lower than would be accepted by an insurer authorized and licensed to transact insurance business in Indiana.

~~(e)~~ **(c)** A licensed surplus lines producer shall file with the department, not later than March 31 of each year, the financial statement, dated as of December 31 of the preceding year, of each unauthorized insurer from whom the surplus lines producer has procured a policy or contract. The insurance commissioner may, in the commissioner's discretion, after reviewing the financial statement of the unauthorized insurer, order the surplus lines producer to cancel an unauthorized insurer's policies and contracts if the commissioner is of the opinion that the financial statement or condition of the unauthorized insurer does not warrant continuance of the risk.

~~(f)~~ **(d)** A licensed surplus lines producer shall keep a separate account of all business transacted under this section. The account may be inspected at any time by the commissioner or the commissioner's deputy or examiner.

~~(g)~~ **(e)** An insurer that issues a policy or contract to insure a risk under this section is considered to have appointed the commissioner as the insurer's attorney upon whom process may be served in Indiana in any suit, action, or proceeding based upon or arising out of the policy or contract.

~~(h)~~ **(f)** The commissioner may revoke or refuse to renew a surplus lines producer's license for failure to comply with this section.

~~(i)~~ **(g)** A surplus lines producer licensed under this chapter may accept and place policies or contracts authorized under this section for an insurance producer duly licensed in Indiana, and may compensate the insurance producer even though the insurance producer is not licensed under this chapter.

~~(j)~~ **(h)** If a surplus lines producer does not remit an amount due to the department within the time prescribed in subsection ~~(c),~~ **(a),** the commissioner shall assess the surplus lines producer a penalty of ten percent (10%) of the amount due. The commissioner shall assess a further penalty of an additional one percent (1%) of the amount due for each month or portion of a month that any amount due remains unpaid after the first month. Penalties assessed under this subsection are payable by the surplus lines producer and are not collectible from an insured.

SECTION 14. IC 27-1-22-4, AS AMENDED BY P.L.193-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Every insurer shall file with the commissioner every manual of classifications, rules, and rates, every rating schedule, every rating plan, and every modification of any of the foregoing which it proposes to use.

(b) The following types of insurance are exempt from the requirements of subsections (a) and (j):

(1) Inland marine risks, which by general custom of the business are not written according to manual rates or rating plans.

(2) Insurance ~~other than workers compensation insurance,~~ that is:

(A) written by an insurer that:

(i) complies with subsection (m) and

~~(ii)~~ maintains at least a B rating by A.M. Best or an equivalent rating by another independent insurance rating organization; **or**

(ii) is approved for an exemption by the commissioner; and

(B) issued to commercial policyholders.

(c) Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the filer supports such filing.

(d) The information furnished in support of a filing may include:

(1) the experience and judgment of the insurer or rating organization making the filing;

(2) its interpretation of any statistical data it relies upon;

(3) the experience of other insurers or rating organizations; or

(4) any other relevant factors.

The commissioner shall have the right to request any additional relevant information. A filing and any supporting information shall be open to public inspection as soon as stamped "filed" within a reasonable time after receipt by the commissioner, and copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

(e) Filings shall become effective upon the date of filing by delivery or upon date of mailing by registered mail to the commissioner, or on a later date specified in the filing.

(f) Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(g) Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf, provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the commissioner to accept such filings on its behalf.

(h) Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the commissioner to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

(1) that any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the commissioner and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and

(2) that any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the commissioner:

(A) requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty (30) days after receipt of such request, either:

(i) to make such filing as a rating organization filing;

(ii) to make such filing on an agency basis solely on behalf of the requesting member; or

(iii) to decline the request of such member; and

(B) excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

(i) Under such rules as the commissioner shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kinds of insurance, or subdivision, or classes of risk, or parts or combinations of any of the foregoing, the rates for which cannot practicably be filed before they are used. Such orders and rules shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as the commissioner may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate, or unfairly discriminatory.

(j) Upon the written application of the insured, stating the insured's reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(k) An insurer shall not make or issue a policy or contract except in accordance with filings which are in effect for that insurer or in accordance with the provisions of this chapter. Subject to the provisions of section 6 of this chapter, any rates, rating plans, rules, classifications, or systems in effect on May 31, 1967, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

(l) The commissioner shall have the right to make an investigation and to examine the pertinent files and records of any insurer, insurance producer, or insured in order to ascertain compliance with any filing for rate or coverage which is in effect. The commissioner shall have the right to set up procedures necessary to eliminate noncompliance, whether on an individual policy, or because of a system of applying charges or discounts which results in failure to comply with such filing.

(m) This subsection applies to an insurer that issues a commercial property or commercial casualty insurance policy to a commercial policyholder. Not more than thirty (30) days after the insurer begins using a commercial property or commercial casualty insurance:

(1) rate;

(2) rating plan;

(3) manual of classifications; ~~or~~

(4) form; or

~~(4)~~ **(5)** modification of an item specified in subdivision (1), (2), ~~or~~ (3), **or (4);**

the insurer shall file with the department, for informational purposes only, the item specified in subdivision (1), (2), (3), ~~or~~ (4), **or (5).** Use of an item specified in subdivision (1), (2), (3), ~~or~~ (4), **or (5)** is not conditioned on review or approval by the department. This subsection does not require filing of an individual policy rate if the original manuals, rates, and rules for the insurance plan or program to which the individual policy conforms has been filed with the department.

(n) ~~Subsection (m) does not apply to~~ **An insurer that issues a commercial property or commercial casualty insurance** policy ~~forms.~~ **form, endorsement, or rider that is prepared to provide or exclude coverage for an unusual or extraordinary risk of a particular commercial policyholder must maintain the policy form, endorsement, or rider in the insurer's Indiana office and provide the policy form, endorsement, or rider to the commissioner at the commissioner's request.**

(o) If coverage under a commercial property or commercial casualty insurance policy is changed upon renewal of the policy, the insurer shall provide written notice to the:

(1) policyholder; and

(2) insurance producer through which the policyholder obtained the coverage;

that coverage under the policy has changed.

SECTION 15. IC 27-1-25-12.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.2. (a) An administrator that:

(1) performs the duties of an administrator in Indiana; and

(2) does not hold a license issued under section 11.1 of this chapter;

shall obtain a nonresident administrator license under this section by filing a uniform application with the commissioner.

(b) Unless the commissioner verifies the nonresident administrator's home state license status through an electronic data base maintained by the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform application filed under subsection (a) must be accompanied by a letter of certification from the nonresident administrator's home state, verifying that the nonresident administrator holds a resident administrator license in the home state.

(c) A nonresident administrator is not eligible for a nonresident administrator license under this section unless the nonresident administrator is licensed as a resident administrator in a home state that has a law or regulation that is substantially similar to this chapter.

(d) Except as provided in subsections (b) and (h), the commissioner shall issue a nonresident administrator license to a nonresident administrator that makes a filing under subsections (a) and (b) upon receipt of the filing.

(e) Unless a nonresident administrator is notified by the commissioner that the commissioner is able to verify the nonresident administrator's home state licensure through an electronic data base described in subsection (b), the nonresident administrator shall:

(1) on September 15 of each year, file a statement with the commissioner affirming that the nonresident administrator maintains a current license in the nonresident administrator's home state; and

(2) pay a filing fee as required by the commissioner.

The commissioner shall collect a filing fee required under subdivision (2) and deposit the fee into the department of insurance fund established by IC 27-1-3-28.

(f) A nonresident administrator that applies for licensure under this section shall:

(1) produce the accounts of the nonresident administrator;

(2) produce the records and files of the nonresident administrator for examination; and

(3) make the officers of the nonresident administrator available to provide information with respect to the affairs of the nonresident administrator;

when reasonably required by the commissioner.

(g) A nonresident administrator is not required to hold a nonresident administrator license in Indiana if the nonresident administrator's function in Indiana is limited to the administration of life, health, or annuity coverage for a total of not more than one hundred (100) Indiana residents.

(h) The commissioner may refuse to issue or may delay the issuance of a nonresident administrator license if the commissioner determines that:

(1) due to events occurring; or

(2) based on information obtained;

after the nonresident administrator's home state's licensure of the nonresident administrator, the nonresident administrator is unable to comply with this chapter or grounds exist for the home state's revocation or suspension of the nonresident administrator's home state license.

(i) If the commissioner makes a determination described in subsection (h), the commissioner:

(1) shall provide written notice of the determination to the insurance regulator of the nonresident administrator's home state; and

(2) may delay the issuance of a nonresident administrator license to the nonresident administrator until the commissioner determines that the nonresident administrator is able to comply with this chapter and that grounds do not

exist for the home state's revocation or suspension of the nonresident administrator's home state license.

SECTION 16. IC 27-1-25-12.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.3. (a) An administrator that is licensed under section 11.1 of this chapter shall, not later than July 1 of each year unless the commissioner grants an extension of time for good cause, file a report for the previous calendar year that complies with the following:

(1) The report must contain financial information reflecting a positive net worth prepared in accordance with section 11.1(b)(4) of this chapter.

(2) The report must be in the form and contain matters prescribed by the commissioner.

(3) The report must be verified by at least two (2) officers of the administrator.

(4) The report must include the complete names and addresses of insurers with which the administrator had a written agreement during the preceding fiscal year.

(5) The report must be accompanied by a filing fee determined by the commissioner.

The commissioner shall collect a filing fee paid under subdivision (5) and deposit the fee into the department of insurance fund established by IC 27-1-3-28.

(b) The commissioner shall review a report filed under subsection (a) not later than September 1 of the year in which the report is filed. Upon completion of the review, the commissioner shall:

(1) issue a certification to the administrator:

(A) indicating that:

(i) the financial statement reflects a positive net worth; and

(ii) the administrator is currently licensed and in good standing; or

(B) noting deficiencies found in the report; or

(2) update an electronic data base that is maintained by the NAIC or by an affiliate or a subsidiary of the NAIC:

(A) indicating that the administrator is solvent and in compliance with this chapter; or

(B) noting deficiencies found in the report.

SECTION 17. IC 27-1-40 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 40. Entry of Unauthorized Alien Companies

Sec. 1. As used in this chapter, "trusteed surplus" means the aggregate value of a United States branch's:

(1) surplus and reserve funds required under IC 27-1-6; and

(2) trust assets described in section 5 of this chapter;

plus investment income accrued on the items described in subdivisions (1) and (2) if the investment income is collected by the state for the trustees, less the aggregate net amount of all of the United States branch's reserves and other liabilities in the United States, as determined under section 6 of this chapter.

Sec. 2. As used in this chapter, "United States branch" means:

(1) an entity that is considered, for purposes of this chapter, to be a domestic company through which insurance business is transacted in the United States by an alien company; and

(2) the alien company's assets and liabilities that are attributable to the insurance business transacted in the United States.

Sec. 3. Indiana may serve as a state of entry to enable an alien company to transact insurance business in the United States through a United States branch if the United States branch:

(1) qualifies under IC 27 for a certificate of authority as if the United States branch were a domestic company organized under IC 27; and

(2) establishes a trust account that meets the following conditions:

(A) The trust account is established under a trust agreement approved by the commissioner with a United States bank.

(B) The amount in the trust account is at least equal to:

(i) the minimum capital and surplus requirements; or

(ii) the authorized control level risk based capital requirements;

whichever is greater, that apply to a domestic company that possesses a certificate of authority to transact the same kind of insurance business in Indiana as the United States branch will transact.

Sec. 4. (a) A trust account established under section 3(2) of this chapter must contain, at all times, an amount equal to the United States branch's reserves and other liabilities, plus the:

(1) minimum capital and surplus requirement; or

(2) authorized control level risk based capital requirement;

whichever is greater, that applies to a domestic company granted a certificate of authority under IC 27 to transact the same kind of insurance business as the United States branch transacts.

(b) One (1) or more trustees must be appointed to administer the trust.

(c) A trust agreement for a trust account established under section 3(2) of this chapter, and amendments to the trust agreement:

(1) must be authenticated in a manner prescribed by the commissioner; and

(2) are effective only when approved by the commissioner after the commissioner finds all of the following:

(A) The trust agreement and amendments are sufficient in form and in conformity with law.

(B) All trustees appointed under subsection (b) are eligible to serve as trustees.

(C) The trust agreement is adequate to protect the interests of the beneficiaries of the trust.

(d) The commissioner may withdraw an approval granted under subsection (c)(2) if, after notice and hearing, the commissioner determines that one (1) or more of the conditions required under subsection (c)(2) for approval no longer exist.

(e) The commissioner may approve modifications of, or variations in, a trust agreement under subsection (c) if the modifications or variations are not prejudicial to the interests of Indiana residents, United States policyholders, and creditors of the United States branch.

(f) A trust agreement for a trust account established under section 3(2) of this chapter must contain provisions that:

(1) vest legal title to trust assets in the trustees and lawfully appointed successors of the trustees;

(2) require that all assets deposited in the trust account be continuously kept in the United States;

(3) provide for appointment of a new trustee in case of a vacancy, subject to the approval of the commissioner;

(4) require that the trustees continuously maintain a record sufficient to identify the assets of the trust account;

(5) require that the trust assets consist of:

(A) cash;

(B) investments of the same kind as the investments in which funds of a domestic company may be invested; and

(C) interest accrued on the cash and investments specified in clauses (A) and (B), if collectable by the

trustees;

(6) establish that the trust:

(A) is for the exclusive benefit, security, and protection of:

(i) United States policyholders of the United States branch; and

(ii) United States creditors of the United States branch after all obligations to policyholders are paid; and

(B) shall be maintained as long as any liability of the United States branch arising out of the United States branch's insurance transactions in the United States is outstanding;

(7) establish that trust assets, other than income as specified in subsection (g), may not be withdrawn or permitted by the trustees to be withdrawn without the approval of the commissioner, except for any of the following purposes:

(A) To make deposits required by the law of any state for the security or benefit of all policyholders of the United States branch in the United States.

(B) To substitute other assets permitted by law and at least equal in value and quality to the assets withdrawn, upon the specific written direction of the United States manager of the United States branch when the United States manager is empowered and acting under general or specific written authority previously granted or delegated by the alien company's board of directors.

(C) To transfer the assets to an official liquidator or rehabilitator under a court order.

(g) A trust agreement for a trust account established under section 3(2) of this chapter may provide that income, earnings, dividends, or interest accumulations of the trust assets may be paid over to the United States manager of the United States branch upon request of the United States manager if the total amount of trust assets following the payment to the United States manager is not less than the amount required under subsection (a).

(h) A trust agreement for a trust account established under section 3(2) of this chapter may provide that written approval of the insurance supervising official of another state in which:

(1) trust assets are deposited; and

(2) the United States branch is authorized to transact insurance business;

is sufficient, and approval of the commissioner is not required, for withdrawal of the trust assets in the other state if the amount of total trust assets after the withdrawal will not be less than the amount required under subsection (a). However, the United States branch shall provide written notice to the commissioner of the nature and extent of the withdrawal.

(i) The commissioner may at any time:

(1) make examinations of the trust assets of a United States branch that holds a certificate of authority under this chapter at the expense of the United States branch; and

(2) require the trustees to file a statement, on a form prescribed by the commissioner, certifying the assets of the trust account and the amounts of the assets.

(j) Refusal or neglect of a trustee to comply with this section is grounds for:

(1) the revocation of the United States branch's certificate of authority; or

(2) the liquidation of the United States branch.

Sec. 5. (a) The commissioner shall require a United States branch to do the following before granting the United States branch a certificate of authority to transact insurance business as described in section 3(1) of this chapter:

(1) Comply with this chapter and any other requirement of IC 27.

(2) Submit the following:

(A) A copy of the current charter and bylaws of the alien company that intends to transact business through the United States branch and any other documents determined by the commissioner to be necessary to provide evidence of the kinds of insurance business that the alien company is authorized to transact. Documents submitted under this clause must be attested to as accurate by the insurance supervisory official in the alien company's domiciliary jurisdiction.

(B) A full statement, subscribed and affirmed as true under penalty of perjury by two (2) officers or equivalent responsible representatives of the alien company in a manner prescribed by the commissioner, of the alien company's financial condition as of the close of the alien company's latest fiscal year, showing the alien company's:

(i) assets;

(ii) liabilities;

(iii) income disbursements;

(iv) business transacted; and

(v) other facts required to be shown in the alien company's annual statement reported to the insurance supervisory official in the alien company's domiciliary jurisdiction.

(C) An English translation, if necessary, of any document submitted under this subdivision.

(3) Submit to an examination of the affairs of the alien company that intends to transact business through the United States branch at the alien company's principal office in the United States. However, the commissioner may accept a report of the insurance supervisory official in the alien company's domiciliary jurisdiction in lieu of the examination required under this subdivision.

(b) The commissioner may at any time hire, at a United States branch's expense, any independent experts that the commissioner considers necessary to implement this chapter with respect to the United States branch.

Sec. 6. (a) A United States branch shall file with the commissioner, not later than March 1, May 15, August 15, and November 15 of each year, all of the following:

(1) Statements of the insurance business transacted in the United States, the assets held by or for the United States branch in the United States for the protection of policyholders and creditors in the United States, and the liabilities incurred against the assets. All of the following apply to the statements filed under this subdivision:

(A) The statements must contain information concerning only the United States branch's assets and insurance business in the United States.

(B) The statements must be in the same form as statements required of a domestic company that possesses a certificate of authority to transact the same kinds of insurance business as the United States branch transacts.

(C) The statements must be filed as follows:

(i) Quarterly statements filed not later than May 15, August 15, and November 15 of each year for the first three (3) quarters of the calendar year.

(ii) An annual statement, filed not later than March 1 of each year.

(2) A trusteed surplus statement, in a form prescribed by the commissioner, at the end of the period covered by each statement described in subdivision (1)(C). In determining the net amount of the United States

branch's liabilities in the United States to be reported in the statement of trusteed surplus, the United States branch shall make adjustments to total liabilities reported on the accompanying annual or quarterly statement as follows:

(A) Add back liabilities used to offset admitted assets reported in the accompanying quarterly or annual statement.

(B) Deduct:

(i) unearned premiums on insurance producer balances or uncollected premiums that are not more than ninety (90) days past due;

(ii) losses reinsured by reinsurers authorized to do business in Indiana, less unpaid reinsurance premiums to be paid to the authorized reinsurers;

(iii) reinsurance recoverables on paid losses from reinsurers not authorized to do business in Indiana that are included as an asset in the annual statement, but only to the extent that a liability for the unauthorized recoverables is included in the liabilities report in the trusteed surplus statement;

(iv) special state deposits held for the exclusive benefit of policyholders of a particular state that do not exceed net liabilities reports for the particular state;

(v) secured accrued retrospective premiums;

(vi) if the alien company transacting business through the United States branch is a life insurer, the amount of the alien company's policy loans to policyholders in the United States, not exceeding the amount of legal reserve required on each policy, and the net amount of uncollected and deferred premiums; and

(vii) any other nontrust asset that the commissioner determines secures liabilities in a manner substantially similar to the manner in which liabilities are secured by the unearned premiums, losses reinsured, reinsurance recoverables, special state deposits, secured accrued retrospective premiums, and policy loans referred to in items (i) through (vi).

(3) Any additional information that relates to the business or assets of the alien company and is required by the commissioner.

(b) The annual statement and trusteed surplus statement described in subsection (a) must be signed and verified by the United States manager, the attorney in fact, or an empowered assistant United States manager, of the United States branch. Items of securities and other property held under a trust agreement must be certified in the trusteed surplus statement by the United States trustees.

(c) Each report concerning an examination of a United States branch conducted under section 4(i) of this chapter must include a trusteed surplus statement as of the date of examination and a general statement of the financial condition of the United States branch.

Sec. 7. (a) Before issuing a new or renewal certificate of authority to a United States branch, the commissioner may require satisfactory proof:

(1) in the charter of the alien company transacting business through the United States branch;

(2) by an agreement evidenced by a certified resolution of the alien company's board of directors; or

(3) otherwise as required by the commissioner;

that the United States branch will not engage in any insurance business not authorized by this chapter and by the alien company's charter.

(b) The commissioner shall issue a renewal certificate of authority to a United States branch if the commissioner is satisfied that the United States branch is not delinquent in any requirement of this title and that the United States branch's continued insurance business in Indiana is not contrary to the best interest of the citizens of Indiana.

(c) A United States branch may not be:

(1) granted a certificate of authority to transact any kind of insurance business in Indiana that is not permitted to be transacted in Indiana by a domestic company granted a certificate of authority under IC 27; or

(2) authorized to transact an insurance business in Indiana if the United States branch transacts, anywhere in the United States, any kind of business other than an insurance business and business incidental to the kind of insurance business that the United States branch is authorized to transact in Indiana.

(d) A United States branch entering the United States through Indiana or another state may not be authorized to transact an insurance business in Indiana if the United States branch fails to substantially comply with any requirement of this title that:

(1) applies to a similar domestic company that is organized after July 1, 2007; and

(2) the commissioner determines is necessary to protect the interest of the policyholders.

(e) Unless the commissioner determines that the kind of insurance is not contrary to the best interest of the citizens of Indiana, a United States branch may not transact any kind of insurance business that is not permitted to be transacted in Indiana by a similar domestic company that is organized after July 1, 2007.

(f) A United States branch may not be authorized to transact an insurance business in Indiana unless the United States branch maintains correct and complete records of the United States branch's transactions that are:

(1) open to inspection by any person who has the right to inspect the records; and

(2) maintained at the United States branch's principal office in Indiana.

Sec. 8. If the commissioner determines from a quarterly or annual statement, trusteed surplus statement, or another report that a United States branch's trusteed surplus is less than:

(1) the minimum capital and surplus requirements; or

(2) the authorized control level risk based capital requirements;

whichever is greater, that apply to a domestic insurer granted a certificate of authority to transact the same kind of insurance business in Indiana, the commissioner may proceed under IC 27-9 against the United States branch as if the United States branch were an insurer in such condition that further transaction by the insurer of insurance business in United States would be hazardous to the insurer's policyholders, creditors, or residents of the United States.".

Page 7, line 34, delete "Armed Forces" and insert "**armed forces**".

Page 8, line 4, delete "Armed Forces" and insert "**armed forces**".

Page 8, after line 40, begin a new paragraph and insert:

"SECTION 22. IC 27-8-5-2.5, AS AMENDED BY P.L.127-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. (a) As used in this section, the term "policy of accident and sickness insurance" does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy. ~~issued as an individual policy.~~

(5) A limited benefit health insurance policy. ~~issued as an~~

~~individual policy.~~

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides ~~a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.~~ **indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:**

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(8) Worker's compensation or similar insurance.

(9) A student health ~~insurance policy.~~ **plan.**

(10) A supplemental plan that always pays in addition to other coverage.

(11) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

(b) The benefits provided by:

(1) an individual policy of accident and sickness insurance; or

(2) a certificate of coverage that is issued under a nonemployer based association group policy of accident and sickness insurance to an individual who is a resident of Indiana;

may not be excluded, limited, or denied for more than twelve (12) months after the effective date of the coverage because of a preexisting condition of the individual.

(c) An individual policy of accident and sickness insurance or a certificate of coverage described in subsection (b) may not define a preexisting condition, a rider, or an endorsement more restrictively than as:

(1) a condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment during the twelve (12) months immediately preceding the effective date of ~~enrollment in~~ the plan;

(2) a condition for which medical advice, diagnosis, care, or treatment was recommended or received during the twelve (12) months immediately preceding the effective date of ~~enrollment in~~ the plan; or

(3) a pregnancy existing on the effective date of ~~enrollment in~~ the plan.

(d) An insurer shall reduce the period allowed for a preexisting condition exclusion described in subsection (b) by the amount of time the individual has continuously served under a preexisting condition clause for a policy of accident and sickness insurance issued under IC 27-8-15 if the individual applies for a policy under this chapter not more than thirty (30) days after coverage under a policy of accident and sickness insurance issued under IC 27-8-15 expires.

(e) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. Notwithstanding subsections (b) and (c), an individual policy of accident and sickness insurance may contain a waiver of coverage for a specified condition and complications directly related to the specified condition if:

(1) the period for which the exemption would be in effect does not exceed two (2) years; and

(2) all of the following conditions are met:

(A) The insurer provides to the applicant before issuance of the policy a written notice explaining the waiver of coverage for the specified condition and complications directly related to the specified condition, including a specific description of each condition, complication, service, and treatment for which coverage is being waived.

(B) The:

(i) offer of coverage; and

(ii) policy;

include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition and specifying each related condition, complication, service, and treatment for which coverage is waived.

(C) The:

(i) offer of coverage; and

(ii) policy;

do not include more than two (2) waivers per individual.

(D) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.

(E) The insurer agrees to:

(i) review the underwriting basis for the waiver upon request one (1) time per year; and

(ii) remove the waiver if the insurer determines that evidence of insurability is satisfactory.

(F) The insurer discloses to the applicant that the applicant may decline the offer of coverage and apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

(G) The waiver of coverage does not apply to coverage required under state law.

(H) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.

The insurer shall require an applicant to initial the written notice provided under subdivision (2)(A) and the waiver included in the offer of coverage and in the policy under subdivision (2)(B) to acknowledge acceptance of the waiver of coverage. An offer of coverage under a policy that includes a waiver under this subsection does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1. This subsection expires July 1, 2007.

(f) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An insurer shall not, on the basis of a waiver contained in a policy as provided in subsection (e), deny coverage for any condition, complication, service, or treatment that is not specified as required in the:

(1) written notice under subsection (e)(2)(A); and

(2) offer of coverage and policy under subsection (e)(2)(B).

This subsection expires July 1, 2007.

(g) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An individual who is covered under a policy that includes a waiver under subsection (e) may directly appeal a denial of coverage based on the waiver by filing a request for an external grievance review under IC 27-8-29 without pursuing a grievance under IC 27-8-28. This subsection expires July 1, 2007.

(h) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. Notwithstanding subsection (e), an individual policy of accident and sickness insurance may not contain a waiver of coverage for:

(1) a mental health condition; or

(2) a developmental disability.

This subsection expires July 1, 2007.

(i) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. A waiver under this section may be applied to a policy of accident and sickness insurance only at the time the policy is issued. This subsection expires July 1, 2007.

(j) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An insurer or insurance producer shall not use this section to circumvent the guaranteed access and availability provisions of this chapter, IC 27-8-15, or

the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191). This subsection expires July 1, 2007.

(k) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. A pattern or practice of violations of subsections (e) through (j) is an unfair method of competition or an unfair and deceptive act and practice in the business of insurance under IC 27-4-1-4. This subsection expires July 1, 2007.

SECTION 23. IC 27-8-5-15.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.6. (a) As used in this section, "coverage of services for a mental illness" includes the services defined under the policy of accident and sickness insurance. However, the term does not include services for the treatment of substance abuse or chemical dependency.

(b) This section applies to a policy of accident and sickness insurance that:

(1) is issued on an individual basis or a group basis;

(2) is issued, entered into, or renewed after December 31, 1999; and

(3) is issued to an employer that employs more than fifty (50) full-time employees.

(c) This section does not apply to the following:

~~(1) An insurance policy listed under IC 27-8-15-9(b).~~

~~(2)~~ **(1)** A legal business entity that has obtained an exemption under section 15.7 of this chapter.

(2) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(3) Coverage issued as a supplement to liability insurance.

(4) Worker's compensation or similar insurance.

(5) Automobile medical payment insurance.

(6) A specified disease policy.

(7) A limited benefit health insurance policy.

(8) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(9) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(10) A supplemental plan that always pays in addition to other coverage.

(11) A student health plan.

(12) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

(d) A group or individual insurance policy or agreement may not permit treatment limitations or financial requirements on the coverage of services for a mental illness if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

(e) An insurer that issues a policy of accident and sickness insurance that provides coverage of services for the treatment of substance abuse and chemical dependency when the services are required in the treatment of a mental illness shall offer to provide the coverage without treatment limitations or financial requirements if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

(f) This section does not require a group or individual insurance policy or agreement to offer mental health benefits.

(g) The benefits delivered under this section may be delivered under a managed care system.

SECTION 24. IC 27-8-5-19, AS AMENDED BY P.L.127-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) As used in this chapter, "late enrollee" has the meaning set forth in 26 U.S.C. 9801(b)(3).

(b) A policy of group accident and sickness insurance may not be issued to a group that has a legal situs in Indiana unless it contains in substance:

(1) the provisions described in subsection (c); or

(2) provisions that, in the opinion of the commissioner, are:

(A) more favorable to the persons insured; or

(B) at least as favorable to the persons insured and more favorable to the policyholder;

than the provisions set forth in subsection (c).

(c) The provisions referred to in subsection (b)(1) are as follows:

(1) A provision that the policyholder is entitled to a grace period of thirty-one (31) days for the payment of any premium due except the first, during which grace period the policy will continue in force, unless the policyholder has given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder is liable to the insurer for the payment of a pro rata premium for the time the policy was in force during the grace period. A provision under this subdivision may provide that the insurer is not obligated to pay claims incurred during the grace period until the premium due is received.

(2) A provision that the validity of the policy may not be contested, except for nonpayment of premiums, after the policy has been in force for two (2) years after its date of issue, and that no statement made by a person covered under the policy relating to the person's insurability may be used in contesting the validity of the insurance with respect to which the statement was made, unless:

(A) the insurance has not been in force for a period of two (2) years or longer during the person's lifetime; or

(B) the statement is contained in a written instrument signed by the insured person.

However, a provision under this subdivision may not preclude the assertion at any time of defenses based upon a person's ineligibility for coverage under the policy or based upon other provisions in the policy.

(3) A provision that a copy of the application, if there is one, of the policyholder must be attached to the policy when issued, that all statements made by the policyholder or by the persons insured are to be deemed representations and not warranties, and that no statement made by any person insured may be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the insured person or, in the event of death or incapacity of the insured person, to the insured person's beneficiary or personal representative.

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of the person's coverage.

(5) A provision specifying any additional exclusions or limitations applicable under the policy with respect to a disease or physical condition of a person that existed before the effective date of the person's coverage under the policy and that is not otherwise excluded from the person's coverage by name or specific description effective on the date of the person's loss. An exclusion or limitation that must be specified in a provision under this subdivision:

(A) may apply only to a disease or physical condition for which medical advice, diagnosis, care, or treatment was received by the person or recommended to the person during the six (6) months before the ~~enrollment~~

effective date of the person's coverage; and

(B) may not apply to a loss incurred or disability beginning after the earlier of:

(i) the end of a continuous period of twelve (12) months beginning on or after the ~~enrollment~~ **effective** date of the person's coverage; or

(ii) the end of a continuous period of eighteen (18) months beginning on the ~~enrollment~~ **effective** date of the person's coverage if the person is a late enrollee.

This subdivision applies only to group policies of accident and sickness insurance other than those described in section 2.5(a)(1) through 2.5(a)(8) and 2.5(b)(2) of this chapter.

(6) A provision specifying any additional exclusions or limitations applicable under the policy with respect to a disease or physical condition of a person that existed before the effective date of the person's coverage under the policy. An exclusion or limitation that must be specified in a provision under this subdivision:

(A) may apply only to a disease or physical condition for which medical advice or treatment was received by the person during a period of three hundred sixty-five (365) days before the effective date of the person's coverage; and

(B) may not apply to a loss incurred or disability beginning after the earlier of the following:

(i) The end of a continuous period of three hundred sixty-five (365) days, beginning on or after the effective date of the person's coverage, during which the person did not receive medical advice or treatment in connection with the disease or physical condition.

(ii) The end of the two (2) year period beginning on the effective date of the person's coverage.

This subdivision applies only to group policies of accident and sickness insurance described in section 2.5(a)(1) through 2.5(a)(8) of this chapter.

(7) If premiums or benefits under the policy vary according to a person's age, a provision specifying an equitable adjustment of:

(A) premiums;

(B) benefits; or

(C) both premiums and benefits;

to be made if the age of a covered person has been misstated. A provision under this subdivision must contain a clear statement of the method of adjustment to be used.

(8) A provision that the insurer will issue to the policyholder, for delivery to each person insured, a certificate, in electronic or paper form, setting forth a statement that:

(A) explains the insurance protection to which the person insured is entitled;

(B) indicates to whom the insurance benefits are payable; and

(C) explains any family member's or dependent's coverage under the policy.

The provision must specify that the certificate will be provided in paper form upon the request of the insured.

(9) A provision stating that written notice of a claim must be given to the insurer within twenty (20) days after the occurrence or commencement of any loss covered by the policy, but that a failure to give notice within the twenty (20) day period does not invalidate or reduce any claim if it can be shown that it was not reasonably possible to give notice within that period and that notice was given as soon as was reasonably possible.

(10) A provision stating that:

(A) the insurer will furnish to the person making a claim, or to the policyholder for delivery to the person making a claim, forms usually furnished by the insurer for filing proof of loss; and

(B) if the forms are not furnished within fifteen (15) days after the insurer received notice of a claim, the person making the claim will be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which the claim is made.

(11) A provision stating that:

(A) in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within ninety (90) days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at reasonable intervals as may be required by the insurer;

(B) in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within ninety (90) days after the date of the loss; and

(C) the failure to furnish proof within the time required under clause (A) or (B) does not invalidate or reduce any claim if it was not reasonably possible to furnish proof within that time, and if proof is furnished as soon as reasonably possible but (except in case of the absence of legal capacity of the claimant) no later than one (1) year from the time proof is otherwise required under the policy.

(12) A provision that:

(A) all benefits payable under the policy (other than benefits for loss of time) will be paid:

(i) immediately upon receipt of written proof of loss if the claim is filed by the policyholder; or

(ii) in accordance with IC 27-8-5.7 **if the claim is filed by the provider (as defined in IC 27-8-5.7-4;** and

(B) subject to due proof of loss, all accrued benefits under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of the period for which the insurer is liable will be paid as soon as possible after receipt of the proof of loss.

(13) A provision that benefits for loss of life of the person insured are payable to the beneficiary designated by the person insured. However, if the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms. In either case, payment of benefits for loss of life is subject to the provisions of the policy if no designated or specified beneficiary is living at the death of the person insured. All other benefits of the policy are payable to the person insured. The policy may also provide that if any benefit is payable to the estate of a person or to a person who is a minor or otherwise not competent to give a valid release, the insurer may pay the benefit, up to an amount of five thousand dollars ($5,000), to any relative by blood or connection by marriage of the person who is deemed by the insurer to be equitably entitled to the benefit.

(14) A provision that the insurer, **at the insurer's expense,** has the right and must be allowed the opportunity to:

(A) examine the person of the individual for whom a claim is made under the policy when and as often as the insurer reasonably requires during the pendency of the claim; and

(B) conduct an autopsy in case of death if it is not prohibited by law.

(15) A provision that no action at law or in equity may be brought to recover on the policy less than sixty (60) days

after proof of loss is filed in accordance with the requirements of the policy and that no action may be brought at all more than three (3) years after the expiration of the time within which proof of loss is required by the policy.

(16) In the case of a policy insuring debtors, a provision that the insurer will furnish to the policyholder, for delivery to each debtor insured under the policy, a certificate of insurance describing the coverage and specifying that the benefits payable will first be applied to reduce or extinguish the indebtedness.

(17) If the policy provides that hospital or medical expense coverage of a dependent child of a group member terminates upon the child's attainment of the limiting age for dependent children set forth in the policy, a provision that the child's attainment of the limiting age does not terminate the hospital and medical coverage of the child while the child is:

(A) incapable of self-sustaining employment because of mental retardation or mental or physical disability; and

(B) chiefly dependent upon the group member for support and maintenance.

A provision under this subdivision may require that proof of the child's incapacity and dependency be furnished to the insurer by the group member within one hundred twenty (120) days of the child's attainment of the limiting age and, subsequently, at reasonable intervals during the two (2) years following the child's attainment of the limiting age. The policy may not require proof more than once per year in the time more than two (2) years after the child's attainment of the limiting age. This subdivision does not require an insurer to provide coverage to a mentally retarded or mentally or physically disabled child who does not satisfy the requirements of the group policy as to evidence of insurability or other requirements for coverage under the policy to take effect. In any case, the terms of the policy apply with regard to the coverage or exclusion from coverage of the child.

(18) A provision that complies with the group portability and guaranteed renewability provisions of the federal Health Insurance Portability and Accountability Act of 1996 (P.L.104-191).

(d) Subsection (c)(5), (c)(8), and (c)(13) do not apply to policies insuring the lives of debtors. The standard provisions required under section 3(a) of this chapter for individual accident and sickness insurance policies do not apply to group accident and sickness insurance policies.

(e) If any policy provision required under subsection (c) is in whole or in part inapplicable to or inconsistent with the coverage provided by an insurer under a particular form of policy, the insurer, with the approval of the commissioner, shall delete the provision from the policy or modify the provision in such a manner as to make it consistent with the coverage provided by the policy.

(f) An insurer that issues a policy described in this section shall include in the insurer's enrollment materials information concerning the manner in which an individual insured under the policy may:

(1) obtain a certificate described in subsection (c)(8); and

(2) request the certificate in paper form.

SECTION 25. IC 27-8-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) All individual accident and health insurance policies, other than those issued pursuant to direct response solicitation, must have a notice prominently printed on the first page of the policy stating in substance that the policyholder has the right to return the policy:

(1) except as provided in subdivision (2), within ten (10) days of its delivery; **or**

(2) if the policy is a travel accident insurance policy, until the earlier of:

(A) thirty (30) days after the policy is delivered; or

(B) the date of departure;

and to have the premium refunded if, after examination of the policy, the insured person is not satisfied for any reason.

(b) All accident and health insurance policies issued pursuant to a direct response solicitation must have a notice prominently printed on the first page stating in substance that the policyholder has the right to return the policy:

(1) except as provided in subdivision (2), within thirty (30) days of its delivery; **or**

(2) if the policy is a travel accident insurance policy, until the earlier of:

(A) thirty (30) days after the policy is delivered; or

(B) the date of departure;

and to have the premium refunded if, after examination of the policy, the insured person is not satisfied for any reason.

(c) Notwithstanding subsection (b), a short term health insurance policy that is written for a period of less than sixty-one (61) days and issued pursuant to a direct response solicitation must have a notice prominently printed on the first page stating in substance that the policyholder has the right to return the policy within ten (10) days of the policy's delivery and to have the premium refunded if, after examination of the policy, the insured person is not satisfied for any reason.

SECTION 26. IC 27-8-5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) As used in this section, "accident and sickness insurance policy" means an insurance policy that provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a), and is issued on a group basis. The term does not include the following:

(1) Accident only, credit, dental, vision, ~~Medicare,~~ Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy.

(5) A limited benefit health insurance policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides ~~a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.~~ **indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:**

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(8) Worker's compensation or similar insurance.

(9) A student health ~~insurance policy.~~ **plan.**

(10) A supplemental plan that always pays in addition to other coverage.

(11) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

(b) As used in this section, "insured" means a child or an individual with a disability who is entitled to coverage under an accident and sickness insurance policy.

(c) As used in this section, "child" means an individual who is less than nineteen (19) years of age.

(d) As used in this section, "individual with a disability" means an individual:

(1) with a physical or mental impairment that substantially limits one (1) or more of the major life activities of the

individual; and

(2) who:

(A) has a record of; or

(B) is regarded as;

having an impairment described in subdivision (1).

(e) A policy of accident and sickness insurance must include coverage for anesthesia and hospital charges for dental care for an insured if the mental or physical condition of the insured requires dental treatment to be rendered in a hospital or an ambulatory outpatient surgical center. The Indications for General Anesthesia, as published in the reference manual of the American Academy of Pediatric Dentistry, are the utilization standards for determining whether performing dental procedures necessary to treat the insured's condition under general anesthesia constitutes appropriate treatment.

(f) An insurer that issues a policy of accident and sickness insurance may:

(1) require prior authorization for hospitalization or treatment in an ambulatory outpatient surgical center for dental care procedures in the same manner that prior authorization is required for hospitalization or treatment of other covered medical conditions; and

(2) restrict coverage to include only procedures performed by a licensed dentist who has privileges at the hospital or ambulatory outpatient surgical center.

(g) This section does not apply to treatment rendered for temporal mandibular joint disorders (TMJ).

SECTION 27. IC 27-8-5.6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** As used in this chapter, the term "accident and sickness insurance" means any policy or contract covering one (1) or more of the kinds of insurance described in classes 1(b) or 2(a) of IC 1971, 27-1-5-1, as governed by IC 1971, 27-8-5.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy.

(6) A limited benefit health insurance policy.

(7) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(8) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(9) A supplemental plan that always pays in addition to other coverage.

(10) A student health plan.

(11) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 28. IC 27-8-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. ~~(a) As used in this section, "compensation" includes pecuniary and nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, the following:~~

~~(1) Bonuses.~~

~~(2) Gifts.~~

~~(3) Prizes.~~

~~(4) Awards.~~

~~(5) Finders fees.~~

~~(b)~~ **(a)** An insurer or other entity that provides a commission ~~or other compensation~~ to an insurance producer or other representative for the sale of a long term care insurance policy may not violate the following conditions:

(1) The amount of the first year commission ~~or first year compensation~~ for selling or servicing the policy may not exceed two hundred percent (200%) of the amount of the commission ~~or other compensation~~ paid in the second year.

(2) The amount of commission ~~or other compensation~~ provided in years after the second year must be equal to the amount provided in the second year.

(3) A commission ~~or other compensation~~ must be provided each year for at least five (5) years after the first year.

~~(c)~~ **(b)** If an existing long term care policy or certificate is replaced, the insurer or other entity that issues the replacement policy may not provide, and its insurance producer may not accept, compensation in an amount greater than the renewal compensation payable by the replacing insurer on renewal policies, unless the benefits of the replacement policy or certificate are clearly and substantially greater than the benefits under the replaced policy or certificate.

~~(d)~~ **(c)** This section does not apply to the following:

(1) Life insurance policies and certificates.

(2) A policy or certificate that is sponsored by an employer for the benefit of:

(A) the employer's employees; or

(B) the employer's employees and their dependents.

SECTION 29. IC 27-8-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** As used in this chapter, "accident and sickness insurance policy" means an insurance policy that:

(1) provides one (1) or more of the types of insurance described in IC 27-1-5-1, classes 1(b) and 2(a); and

(2) is issued on a group basis.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy.

(6) A limited benefit health insurance policy.

(7) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(8) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(9) A supplemental plan that always pays in addition to other coverage.

(10) A student health plan.

(11) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 30. IC 27-8-14.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that:

(1) provides one (1) or more of the types of insurance described in IC 27-1-5-1, classes 1(b) and 2(a); and

(2) is issued on a group basis.

(b) As used in this chapter, "accident and sickness insurance

policy" does not include **the following:**

~~(1) accident only;~~
~~(2) credit;~~
~~(3) dental;~~
~~(4) vision;~~
~~(5) Medicare supplement;~~
~~(6) long term care; or~~
~~(7) disability income;~~
~~insurance.~~

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
(2) Coverage issued as a supplement to liability insurance.
(3) Worker's compensation or similar insurance.
(4) Automobile medical payment insurance.
(5) A specified disease policy.
(6) A limited benefit health insurance policy.
(7) A short term insurance plan that:
(A) may not be renewed; and
(B) has a duration of not more than six (6) months.
(8) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:
(A) hospital confinement, critical illness, or intensive care; or
(B) gaps for deductibles or copayments.
(9) A supplemental plan that always pays in addition to other coverage.
(10) A student health plan.
(11) An employer sponsored health benefit plan that is:
(A) provided to individuals who are eligible for Medicare; and
(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 31. IC 27-8-14.2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that provides one (1) or more of the types of insurance described in IC 27-1-5-1, classes 1(b) and 2(a).

(b) The term does not include the following:
(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
(2) Coverage issued as a supplement to liability insurance.
(3) Worker's compensation or similar insurance.
(4) Automobile medical payment insurance.
(5) A specified disease policy. ~~issued as an individual policy.~~
(6) A limited benefit health insurance policy. ~~issued as an individual policy.~~
(7) A short term insurance plan that:
(A) may not be renewed; and
(B) has a duration of not more than six (6) months.
(8) A policy that provides ~~a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.~~ **indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:**
(A) hospital confinement, critical illness, or intensive care; or
(B) gaps for deductibles or copayments.
(9) A supplemental plan that always pays in addition to other coverage.
(10) A student health plan.
(11) An employer sponsored health benefit plan that is:
(A) provided to individuals who are eligible for Medicare; and
(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 32. IC 27-8-14.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "health insurance plan" means any:
(1) hospital or medical expense incurred policy or certificate;
(2) hospital or medical service plan contract; or
(3) health maintenance organization subscriber contract;
provided to an insured.

(b) The term does not include the following:
(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
(2) Coverage issued as a supplement to liability insurance.
(3) Worker's compensation or similar insurance.
(4) Automobile medical payment insurance.
(5) A specified disease policy. ~~issued as an individual policy.~~
(6) A limited benefit health insurance policy. ~~issued as an individual policy.~~
(7) A short term insurance plan that:
(A) may not be renewed; and
(B) has a duration of not more than six (6) months.
(8) A policy that provides ~~a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.~~ **indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:**
(A) hospital confinement, critical illness, or intensive care; or
(B) gaps for deductibles or copayments.
(9) A supplemental plan that always pays in addition to other coverage.
(10) A student health plan.
(11) An employer sponsored health benefit plan that is:
(A) provided to individuals who are eligible for Medicare; and
(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 33. IC 27-8-14.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that:
(1) provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a); and
(2) is issued on a group basis.

(b) "Accident and sickness insurance policy" does not include ~~accident only, credit, dental, vision, Medicare supplement, long-term care, or disability income insurance.~~ **the following:**
(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
(2) Coverage issued as a supplement to liability insurance.
(3) Worker's compensation or similar insurance.
(4) Automobile medical payment insurance.
(5) A specified disease policy.
(6) A limited benefit health insurance policy.
(7) A short term insurance plan that:
(A) may not be renewed; and
(B) has a duration of not more than six (6) months.
(8) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:
(A) hospital confinement, critical illness, or intensive care; or
(B) gaps for deductibles or copayments.
(9) A supplemental plan that always pays in addition to other coverage.
(10) A student health plan.
(11) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 34. IC 27-8-14.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that:

(1) provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a); and

(2) is issued on a group basis.

(b) "Accident and sickness insurance policy" does not include ~~a policy providing accident only, credit, dental, vision, Medicare supplement, long-term care, or disability income insurance.~~ **the following:**

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy.

(6) A limited benefit health insurance policy.

(7) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(8) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(9) A supplemental plan that always pays in addition to other coverage.

(10) A student health plan.

(11) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 35. IC 27-8-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A claim review agent may not conduct medical claims review concerning health care services delivered to an enrollee in Indiana unless the claim review agent holds a certificate of registration issued by the department under this chapter.

(b) To obtain a certificate of registration under this chapter, a claim review agent must submit to the department an application containing the following:

(1) The name, address, telephone number, and normal business hours of the claim review agent.

(2) The name and telephone number of a person that the department may contact concerning the information in the application.

(3) Documentation necessary for the department to determine that the claim review agent is capable of satisfying the minimum requirements set forth in section 7 of this chapter.

(c) An application submitted under this section must be:

(1) signed and verified by the applicant; and

(2) accompanied by an application fee in the amount established under subsection (d).

The commissioner shall deposit an application fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.

(d) The department shall set the amount of the application fee required by subsection (c) and section 6(a) of this chapter in the rules adopted under section 14 of this chapter. The amount may not be more than is reasonably necessary to generate revenue sufficient to offset the costs incurred by the department in carrying out the department's responsibilities under this chapter.

(e) The department shall issue a certificate of registration to a claim review agent that satisfies the requirements of this section.

SECTION 36. IC 27-8-16-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.2. (a) A person may not act as a claim review consultant concerning health care services delivered to an enrollee in Indiana unless the person holds a certificate of registration issued by the department under this chapter.

(b) To obtain a certificate of registration under this chapter, a person must submit to the department an application containing the following:

(1) The name, address, telephone number, and normal business hours of the person.

(2) The name and telephone number of a person that the department may contact concerning the information in the application.

(3) Documentation necessary for the department to determine that the person is capable of satisfying the minimum requirements set forth in this chapter.

(c) An application submitted under this section must be:

(1) signed and verified by the applicant; and

(2) accompanied by an application fee in the amount established under subsection (d).

The commissioner shall deposit an application fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.

(d) The department shall set the amount of the application fee required by subsection (c) and section 6(a) of this chapter in the rules adopted under section 14 of this chapter. The amount may not be more than is reasonably necessary to generate revenue sufficient to offset the costs incurred by the department in carrying out the department's responsibilities under this chapter.

(e) The department shall issue a certificate of registration to a claim review consultant that satisfies the requirements of this section.

SECTION 37. IC 27-8-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) To remain in effect, a certificate of registration issued under this chapter must be renewed on June 30 of each year. To obtain the renewal of a certificate of registration, a claim review agent or a claim review consultant must submit an application to the commissioner. The application must be accompanied by a registration fee in the amount set under section 5(d) of this chapter. **The commissioner shall deposit a registration fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.**

(b) A certificate of registration issued under this chapter may not be transferred unless the department determines that the person to which the certificate of registration is to be transferred has satisfied the requirements of this chapter.

(c) If there is a material change in any of the information set forth in an application submitted under this chapter, the claim review agent or claim review consultant that submitted the application shall notify the department of the change in writing not more than thirty (30) days after the change.

SECTION 38. IC 27-8-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A utilization review agent may not conduct utilization review in Indiana unless the utilization review agent holds a certificate of registration issued by the department under this chapter.

(b) To obtain a certificate of registration under this chapter, a utilization review agent must submit to the department an application containing the following:

(1) The name, address, telephone number, and normal business hours of the utilization review agent.

(2) The name and telephone number of a person that the

department may contact concerning the information in the application.

(3) Documentation necessary for the department to determine that the utilization review agent is capable of satisfying the minimum requirements set forth in section 11 of this chapter.

(c) An application submitted under this section must be:

(1) signed and verified by the applicant; and

(2) accompanied by an application fee in the amount established under subsection (d).

The commissioner shall deposit an application fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.

(d) The department shall set the amount of the application fee required by subsection (c) and section 10(a) of this chapter in the rules adopted under section 20 of this chapter. The amount may not be more than is reasonably necessary to generate revenue sufficient to offset the costs incurred by the department in carrying out its responsibilities under this chapter.

(e) The department shall issue a certificate of registration to a utilization review agent that satisfies the requirements of this section.

SECTION 39. IC 27-8-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) To remain in effect, a certificate of registration issued under this chapter must be renewed on June 30 of each year. To obtain the renewal of a certificate of registration, a utilization review agent must submit an application to the commissioner. The application must be accompanied by a registration fee in the amount set under section 9(d) of this chapter. **The commissioner shall deposit a registration fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.**

(b) A certificate of registration issued under this chapter may not be transferred unless the department determines that the entity to whom the certificate is to be transferred has satisfied the requirements of this chapter.

(c) If there is a material change in any of the information set forth in an application submitted under this chapter, the utilization review agent that submitted the application shall notify the department of the change in writing within thirty (30) days after the change.

SECTION 40. IC 27-8-24.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "accident and sickness insurance policy" ~~has the meaning set forth in IC 27-8-5-27(a).~~ **means an insurance policy that provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a), and is issued on a group basis.**

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy.

(6) A limited benefit health insurance policy.

(7) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(8) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(9) A supplemental plan that always pays in addition to other coverage.

(10) A student health plan.

(11) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

SECTION 41. IC 27-8-29-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15.5. Upon the request of a covered individual who is notified under section 15(d) of this chapter that the independent review organization has made a determination, the independent review organization shall provide to the covered individual all information reasonably necessary to enable the covered individual to understand the:**

(1) effect of the determination on the covered individual; and

(2) manner in which the insurer may be expected to respond to the determination.

SECTION 42. IC 27-13-10.1-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. Upon the request of an enrollee who is notified under section 4(c) of this chapter that the independent review organization has made a determination, the independent review organization shall provide to the enrollee all information reasonably necessary to enable the enrollee to understand the:**

(1) effect of the determination on the enrollee; and

(2) manner in which the health maintenance organization may be expected to respond to the determination.

SECTION 43. IC 27-13-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. Each health maintenance organization subject to this article shall pay to the commissioner **for deposit into the department of insurance fund established by IC 27-1-3-28** the following fees:

(1) Three hundred fifty dollars ($350) for filing:

(A) an application for a certificate of authority; or

(B) an application for an amendment to a certificate of authority.

(2) Fifty dollars ($50) for filing each annual report.

SECTION 44. IC 27-13-34-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) A limited service health maintenance organization subject to this chapter shall pay to the commissioner **for deposit into the department of insurance fund established by IC 27-1-3-28** the following fees:

(1) For filing an application for a certificate of authority or an amendment to an application, three hundred fifty dollars ($350).

(2) For filing each annual report, fifty dollars ($50).

(b) In addition to the fees required by subsection (a), a limited service health maintenance organization subject to this chapter must pay the fees required by IC 27-1-3-15.

SECTION 45. IC 36-8-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The department and a trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries. However, a department and a trustee may not establish or modify a retirement plan after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any benefits of the employee beneficiaries set forth in any retirement plan that was in effect on January 1, 1989.

(b) The normal retirement age may be earlier but not later than the age of seventy (70). However, the sheriff may retire an employee who is otherwise eligible for retirement if the board finds that the employee is not physically or mentally capable of performing the employee's duties.

(c) Joint contributions shall be made to the trust fund:

(1) either by:

(A) the department through a general appropriation provided to the department;

(B) a line item appropriation directly to the trust fund; or

(C) both; and

(2) by an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. However, the employer may pay all or a part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for plans established or modifications adopted after June 30, 1989, unless the establishment or modification is approved by the county fiscal body.

(d) For a county not having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed six percent (6%) of the employee beneficiary's average monthly wages. For a county having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.

(e) The minimum annual contribution by the department must be sufficient, as determined by the pension engineers, to prevent deterioration in the actuarial status of the trust fund during that year. If the department fails to make minimum contributions for three (3) successive years, the pension trust terminates and the trust fund shall be liquidated.

(f) If during liquidation all expenses of the pension trust are paid, adequate provision must be made for continuing pension payments to retired persons. Each employee beneficiary is entitled to receive the net amount paid into the trust fund from the employee beneficiary's wages, and any remaining sum shall be equitably divided among employee beneficiaries in proportion to the net amount paid from their wages into the trust fund.

(g) If a person ceases to be an employee beneficiary because of death, disability, unemployment, retirement, or other reason, the person, the person's beneficiary, or the person's estate is entitled to receive at least the net amount paid into the trust fund from the person's wages, either in a lump sum or monthly installments not less than the person's pension amount.

(h) If an employee beneficiary is retired for old age, the employee beneficiary is entitled to receive a monthly income in the proper amount of the employee beneficiary's pension during the employee beneficiary's lifetime.

(i) To be entitled to the full amount of the employee beneficiary's pension classification, an employee beneficiary must have contributed at least twenty (20) years of service to the department before retirement. Otherwise, the employee beneficiary is entitled to receive a pension proportional to the length of the employee beneficiary's service.

(j) This subsection does not apply to a county that adopts an ordinance under section 12.1 of this chapter. For an employee beneficiary who retires before January 1, 1985, a monthly pension may not exceed by more than twenty dollars ($20) one-half (1/2) the amount of the average monthly wage received during the highest paid five (5) years before retirement. However, in counties where the fiscal body approves the increases, the maximum monthly pension for an employee beneficiary who retires after December 31, 1984, may be increased by no more or no less than two percent (2%) of that average monthly wage for each year of service over twenty (20) years to a maximum of seventy-four percent (74%) of that average monthly wage plus twenty dollars ($20). For the purposes of determining the amount of an increase in the maximum monthly pension approved by the fiscal body for an employee beneficiary who retires after December 31, 1984, the fiscal body may determine that the employee beneficiary's years of service include the years of service with the sheriff's department that occurred before the effective date of the pension trust. For an employee beneficiary who retires after June 30, 1996, the average monthly wage used to determine the employee beneficiary's pension benefits may not exceed the monthly minimum salary that a full-time prosecuting attorney was entitled to be paid by the state at the time the employee beneficiary retires.

(k) The trust fund may not be commingled with other funds, except as provided in this chapter, and may be invested only in accordance with statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

(l) The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

(m) The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the plan.

(n) Within ninety (90) days after the close of each fiscal year, the trustee, with the aid of the pension engineers, shall prepare and file an annual report with the department. ~~and the state insurance department.~~ The report must include the following:

(1) Schedule 1. Receipts and disbursements.

(2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.

(3) Schedule 3. List of terminations, showing the cause and amount of refund.

(4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.

(5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(o) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

SECTION 46. IC 16-39-9-3 IS REPEALED [EFFECTIVE JULY 1, 2007].

SECTION 47. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.**

(b) As used in this SECTION, "committee" refers to the interim study committee to define "health insurance" established by subsection (c).

(c) There is established the interim study committee to define "health insurance". The committee shall only study and make recommendations to the general assembly concerning the manner in which accident and sickness insurance policies, self-insured plans, and health maintenance organization contracts that provide coverage for health care services are defined in the Indiana Code.

(d) The committee consists of the following members:

(1) Four (4) members of the house of representatives, to be appointed by the speaker of the house of representatives, not more than two (2) of whom may represent the same political party.

(2) Four (4) members of the senate, to be appointed by the president pro tempore of the senate, not more than two (2) of whom may represent the same political party.

(e) The committee shall operate under the policies governing study committees adopted by the legislative council.

(f) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including final reports.

(g) The committee shall submit a final report to the legislative council not later than October 31, 2007.

(h) This SECTION expires December 31, 2007.

SECTION 48. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "corporation" refers to the health and hospital corporation of Marion County.**

(b) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(c) As used in this SECTION, "program" refers to the health care management program established under subsection (d).

(d) Before June 1, 2008, the office shall establish a demonstration project for a health care management program to allow the office to do the following:

(1) Offer to Medicaid recipients who reside in Marion County the opportunity to receive Medicaid services provided solely by the corporation, including any clinic operated by the corporation. The offer must be extended to a number of Medicaid recipients that is sufficiently large to result in a percentage of recipients accepting the offer to provide meaningful data to guide the establishment and implementation of the program under subdivision (2).

(2) Require the corporation to establish and implement a program of health care management applying to all Medicaid recipients in Indiana and modeled on the United States Department of Veterans Affairs Quality Enhancement Research Initiative.

(3) Include in the program payment incentives for:

(A) health care providers; and

(B) administrators;

of the corporation to reward the achievement of objectives established for the program.

(e) The office and the corporation shall study the impact of implementing the program under subsection (d)(2), including the impact the program has on the:

(1) quality; and

(2) cost;

of health care provided to Medicaid recipients in Indiana.

(f) The office shall consult with the Regenstrief Institute for Health Care in developing, implementing, and studying the program.

(g) The office shall apply to the United States Department of Health and Human Services for any amendment to the state Medicaid plan or demonstration waiver that is needed to implement this SECTION. The corporation shall assist the office in requesting the amendment or demonstration waiver and, if the amendment or waiver is approved, establishing and implementing the amendment or waiver.

(h) The office may not implement the amendment or waiver until the office files an affidavit with the governor attesting that the amendment or waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not more than five (5) days after the office is notified that the amendment or waiver is approved.

(i) If the office receives approval for the amendment or waiver under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (h), the office shall implement the amendment or waiver not more than sixty (60) days after the governor receives the affidavit.

(j) The office may adopt rules under IC 4-22-2 to implement this SECTION.

(k) The office shall, before July 1 of each year, report to the legislative council in an electronic format under IC 5-14-6 concerning the demonstration project developed and implemented under this SECTION.

(l) This SECTION expires January 1, 2013.

SECTION 49. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "corporation" refers to the health and hospital corporation of Marion County.**

(b) As used in this SECTION, "insurer" includes the following:

(1) An insurer (as defined in IC 27-8-11-1).

(2) An administrator licensed under IC 27-1-25.

(3) A health maintenance organization (as defined in IC 27-13-1-19).

(4) A person that pays or administers claims on behalf of an insurer or a health maintenance organization.

(c) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(d) As used in this SECTION, "small employer" has the meaning set forth in IC 27-8-15-14.

(e) Before June 1, 2008, the office shall develop, with the corporation, a pilot project through which small employers that are unable to afford to offer health care coverage for employees of the small employers may obtain access to affordable health care coverage for the employees.

(f) The office may adopt rules under IC 4-22-2 to implement this SECTION.

(g) If the pilot project results in the availability of health care coverage to small employer groups through the pilot project at a premium rate that is at least twenty percent (20%) less than a comparable health benefit plan available to small employer groups in Indiana, an insurer may not enter into or enforce an agreement with the corporation that contains a provision that:

(1) prohibits, or grants the insurer an option to prohibit, the corporation from contracting with another insurer to accept lower payment for health care services than the payment specified in the agreement;

(2) requires, or grants the insurer an option to require, the corporation to accept a lower payment from the insurer if the corporation agrees with another insurer to accept lower payment for health care services;

(3) requires, or grants the insurer an option to require, termination or renegotiation of the agreement if the corporation agrees with another insurer to accept lower payment for health care services; or

(4) requires the corporation to disclose the corporation's reimbursement rates under contracts with other insurers.

(h) The office shall report to the legislative council in an electronic format under IC 5-14-6 concerning the development and implementation of a pilot project under this SECTION before December 1, 2008.

(i) This SECTION expires December 31, 2013.

SECTION 50. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 171 as reprinted February 14, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

BARDON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 199, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 15 through 42.

Page 4, delete lines 1 through 5, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "committee" refers to the Indiana child custody and support advisory committee established by IC 33-24-11-1.**

(b) The committee shall evaluate:

(1) the facilitation of surrogacy agreements and births;

(2) how other jurisdictions regulate or penalize surrogacy births and surrogacy agreements; and

(3) current laws and regulation concerning surrogacy births and surrogacy agreements.

If, based on the committee's evaluation under this subsection, the committee determines that changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of surrogacy laws. The committee may also make specific recommendations concerning the regulation of surrogacy agreements.

(c) The committee shall submit a report of the results of its study required under this section to the legislative council before November 1, 2007. The report must be in an electronic format under IC 5-14-6.

(d) This SECTION expires November 1, 2007.".

Renumber all SECTIONS consecutively.

(Reference is to SB 199 as reprinted February 26, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

L. LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy and Utilities, to which was referred Engrossed Senate Bill 206, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used at a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) carbon, sulfur, **mercury,** or nitrogen based pollutants; **or**

(ii) particulate matter;

(B) that are associated with the combustion or use of coal; and

(C) that are regulated, or reasonably anticipated by the commission to be regulated, by:

(i) the federal government;

(ii) the state;

(iii) a political subdivision of the state; or

(iv) any agency of a unit of government described in items (i) through (iii); and

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) As used in this section, "Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

(c) Except as provided in subsection (d), the commission shall allow a utility to recover as operating expenses those expenses associated with:

(1) research and development designed to increase use of Indiana coal; and

(2) preconstruction costs (including design and engineering costs) associated with employing clean coal technology at a new or existing coal burning electric **or steam** generating facility if the commission finds that the facility:

(A) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(B) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal;

after the technology is in place.

(d) The commission may only allow a utility to recover preconstruction costs as operating expenses on a particular project if the commission awarded a certificate under IC 8-1-8.7 for that project.

(e) The commission shall establish guidelines for determining recoverable expenses.

SECTION 2. IC 8-1-2-6.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.6. (a) As used in this section:

"Clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used at a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) carbon, sulfur, **mercury,** or nitrogen based pollutants; **or**

(ii) particulate matter;

(B) that are associated with **the** combustion or use of coal; and

(C) that are regulated, or reasonably anticipated by the commission to be regulated, by:

(i) the federal government;

(ii) the state;

(iii) a political subdivision of the state; or

(iv) any agency of a unit of government described in items (i) through (iii); and

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

"Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

"Qualified pollution control property" means an air pollution control device on a coal burning electric **or steam** generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission, that meets applicable state or federal requirements, and that is designed to accommodate the burning of coal from the geological formation known as the Illinois Basin.

"Utility" refers to any electric **or steam** generating utility allowed by law to earn a return on its investment.

(b) Upon the request of a utility that began construction after October 1, 1985, and before March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction, but only if at the time of the application and thereafter:

(1) the facility burns only Indiana coal as its primary fuel source once the air pollution control device is fully operational; or

(2) the utility can prove to the commission that the utility is justified because of economic considerations or governmental requirements in utilizing some non-Indiana coal.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 3. IC 8-1-2-6.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.7. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) carbon, sulfur, **mercury,** or nitrogen based pollutants; **or**

(ii) particulate matter;

(B) that are associated with the combustion or use of coal; and

(C) that are regulated, or reasonably anticipated by the commission to be regulated, by:

(i) the federal government;

(ii) the state;

(iii) a political subdivision of the state; or

(iv) any agency of a unit of government described in items (i) through (iii); and

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) The commission shall allow a public or municipally owned electric **or steam** utility that incorporates clean coal technology to depreciate that technology over a period of not less than ten (10) years or the useful economic life of the technology, whichever is less and not more than twenty (20) years if it finds that the facility where the clean coal technology is employed:

(1) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(2) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal; after the technology is in place.

SECTION 4. IC 8-1-2-6.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.8. (a) This section applies to a utility that begins construction of qualified pollution control property after March 31, 2002.

(b) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) carbon, sulfur, mercury, or nitrogen oxides;

(ii) particulate matter; or

(iii) other ~~regulated~~ air emissions;

(B) that are associated with the combustion or use of coal; and

(C) that are regulated, or reasonably anticipated by the commission to be regulated, by:

(i) the federal government;

(ii) the state;

(iii) a political subdivision of the state; or

(iv) any agency of a unit of government described in items (i) through (iii); and

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

(c) As used in this section, "qualified pollution control property" means an air pollution control device on a coal burning energy generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission and that meets applicable state or federal requirements.

(d) As used in this section, "utility" refers to any energy generating utility allowed by law to earn a return on its investment.

(e) Upon the request of a utility that begins construction after March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction.

(f) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 5. IC 8-1-8.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing electric generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) carbon, sulfur, **mercury,** or nitrogen based pollutants; **or**

(ii) particulate matter;

(B) that are associated with the combustion or use of coal; and

(C) that are regulated, or reasonably anticipated by the commission to be regulated, by:

(i) the federal government;

(ii) the state;

(iii) a political subdivision of the state; or

(iv) any agency of a unit of government described in items (i) through (iii); and

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.".

Delete pages 2 through 5.

Page 6, delete lines 1 through 8.

Page 7, delete lines 14 through 42, begin a new paragraph and insert:

"SECTION 7. IC 8-1-8.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) carbon, sulfur, mercury, or nitrogen oxides;

(ii) particulate matter; or

(iii) other ~~regulated~~ air emissions;

(B) that are associated with the combustion or use of coal; and

(C) that are regulated, or reasonably anticipated by the commission to be regulated, by:

(i) the federal government;

(ii) the state;

(iii) a political subdivision of the state; or

(iv) any agency of a unit of government described in items (i) through (iii); and

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.**

(b) As used in this SECTION, "electric utility" means a public utility (as defined in IC 8-1-2-1(a)) that:

(1) provides retail electric service to:

(A) more than four hundred thousand (400,000); but

(B) less than five hundred thousand (500,000);

retail electric customers in Indiana on April 1, 2007; and

(2) has a service area that includes, among other counties, each of the counties described in IC 36-7-7.6-1.

(c) As used in this SECTION, "electric utility holding company" means a corporation, company, partnership, or limited liability company that owns an electric utility.

(d) As used in this SECTION, "regional public power authority" means a multicounty public power authority established to:

(1) acquire the generation, transmission, and distribution assets of an electric utility or an electric utility holding company;

(2) own and operate the assets described in subdivision (1); and

(3) act as a nonprofit utility to provide retail electric service to residential, commercial, industrial, and governmental customers within the participating units.

(e) Upon the request of the county executives of three (3) or more counties that are located in an electric utility's service area, the commission shall study the feasibility of establishing a regional public power authority. The study required by this subsection must include the following:

(1) An examination of the need to:

(A) enact new state statutes or regulations; or

(B) amend existing state statutes or regulations;

to permit the establishment of a regional public power authority.

(2) A valuation of the electric utility's generation, transmission, and distribution assets to be acquired by the regional public power authority.

(3) A study of:

(A) existing and potential funding sources or other mechanisms, including the use of eminent domain, available to the regional public power authority to acquire the assets described in subdivision (2); and

(B) the method for determining each participating unit's respective:

(i) contribution toward the acquisition of the assets; and

(ii) ownership interest in the assets acquired.

(4) A study of similarly sized public power authorities operating in the United States, including information on the assets, expenses, operations, management, and customer bases of the authorities, to the extent the information is available.

(5) A cost benefit analysis of establishing a regional public power authority.

(6) A determination of whether the establishment of a regional public power authority is in the public interest.

(7) An examination of any other issues concerning the establishment of a regional public power authority that the commission considers relevant or necessary for study.

(f) As necessary to conduct the study required by subsection (e), the commission may:

(1) make use of the commission's existing resources and technical staff;

(2) employ or consult with outside analysts, engineers, experts, or other professionals; and

(3) consult with other:

(A) public power authorities operating in the United States; or

(B) state regulatory commissions that:

(i) regulate public power authorities; or

(ii) have conducted similar studies.

(g) Not later than December 31, 2007, the commission shall provide a report to the following on the commission's findings from the study conducted under subsection (e):

(1) The regulatory flexibility committee established by IC 8-1-2.6-4. The report provided to the regulatory flexibility committee under this subsection must be separate from the commission's annual report to the regulatory flexibility committee under IC 8-1-2.5-9(b).

(2) The legislative council. The report provided to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(3) The county executive of each county in the electric utility's service area on April 1, 2007.

(h) The report required by subsection (g) must contain the following:

(1) A summary of the commission's findings with respect to each issue set forth in subsection (e).

(2) Recommendations to the regulatory flexibility committee on any legislation needed to establish a regional public power authority.

(3) Any other findings or recommendations that the commission considers relevant or useful to the entities described in subsection (g).

(i) Before the commission submits its report under subsection (g), any entity described in subsection (g) may require the commission to provide one (1) or more status reports on the commission's study under subsection (e). A status report provided to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(j) The regulatory flexibility committee:

(1) shall review the analyses and recommendations of the commission contained in:

(A) any status reports provided by the commission under subsection (i); and

(B) the commission's final report provided under subsection (g); and

(2) may recommend to the general assembly any legislation that is necessary to establish a regional public power authority in Indiana, if the regulatory flexibility committee determines that the establishment of a regional public power authority is in the public interest.

(k) This SECTION does not empower the commission or any entity described in subsection (g) to require an electric utility to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission and all entities described in subsection (g) shall exercise all necessary caution to avoid disclosure of confidential information supplied under this SECTION.".

Delete page 8.

Renumber all SECTIONS consecutively.

(Reference is to SB 206 as reprinted February 2, 2007.) and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

CROOKS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Engrossed Senate Bill 207, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 1, delete "P.L. 101-2006," and insert "SEA 526-2007, SECTION 167,"

Page 1, line 2, delete "SECTION 23,".

Page 1, line 3, delete "(a)" and insert "(a) Agency", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-2.

(b)".

Page 1, line 5, delete "(b)" and insert "**(c)**".

Page 2, line 30, delete "sedation or" and insert "**sedation,**".

Page 2, line 31, delete "analgesia, deep sedation or analgesia," and insert "**deep sedation,**".

Page 2, between lines 32 and 33, begin a new paragraph and insert:

"**Sec. 3. As used in this chapter, "personnel of the agency" means the agency's directors, officers, employees, representatives, agents, attorneys, investigators, assistants, clerks, staff, and any other individual or organization serving the agency in any capacity.**".

Page 2, line 33, delete "3." and insert "**4**.".

Page 3, line 10, delete "4." and insert "**5.**".

Page 3, line 11, delete "3" and insert "**4**".

Page 3, line 19, delete "5." and insert "**6.**".

Page 3, line 24, delete "agency." and insert "**agency; that are generated, undertaken, or performed as a result of a report described in section 5 of this chapter or under the agreement described in section 4(a) of this chapter.**".

Page 3, line 25, delete "The agency" and insert "**Neither the personnel of the agency nor any participant or witness in an agency proceeding or deliberation**".

Page 3, line 25, delete "not".

Page 3, line 29, delete "determinations;" and insert "**findings;**".

Page 3, line 31, delete "4" and insert "**5**".

Page 3, line 32, delete "3(a)" and insert "**4(a)**".

Page 3, line 33, delete "A person who has participated in an agency proceeding or" and insert "**Information that is otherwise discoverable or admissible from original sources is not immune from discovery or use in any proceeding merely because it was presented during proceedings or deliberations of the agency. Neither the personnel of the agency nor any participant or witness in any agency proceeding or deliberation may be prevented from testifying:**

(1) as to matters within the individual's own knowledge; and

(2) in accordance with the other provisions of this chapter.

However, a witness cannot be questioned about testimony on other matters before the agency or about opinions formed by the witness as a result of the agency's proceedings or deliberations.".

Page 3, delete lines 34 through 41.

Page 4, line 2, delete "3(a)" and insert "**4(a)**".

Page 4, line 19, delete "6." and insert "**7.**".

Page 4, line 21, delete "7." and insert "**8.**".

Page 5, line 6, after "agency" insert "**(as defined in IC 16-40-5-1)**".

Page 5, line 13, delete "Except as provided in subsection (f), information" and insert "**Information**".

Page 5, line 15, delete "," and insert "**from use as evidence in an administrative or judicial proceeding, and notwithstanding IC 16-40-5, the agency may not release the information or material outside the agency.**".

Page 5, line 15, delete "and the agency may not use or provide the information".

Page 5, delete line 16.

Page 5, line 17, delete "a judicial proceeding.".

Page 5, run in lines 15 through 17.

Page 5, line 22, delete "The" and insert "**Upon its determination, the**".

Page 5, line 32, delete "as part of the health care quality indicator data".

Page 5, line 33, delete "program,".

Page 5, line 33, delete "shall," and insert "**may,**".

Page 5, line 35, after "develop" insert "**a list of**".

Page 5, line 35, delete "infections;" and insert "**infections that have been adopted or endorsed by a national consensus organization for voluntary reporting by health care facilities to the state department of health;**".

(Reference is to SB 207 as reprinted February 26, 2007.) and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 1.

VAN HAAFTEN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 335, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) "Applicant", for purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-2.

(b) "Applicant", for purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-1.

(c) "Applicant", for purposes of IC 16-27-4, refers to an applicant for a license under IC 16-27-4.

SECTION 2. IC 16-27-4-6, AS ADDED BY P.L.212-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) To operate a personal services agency, a person must obtain a license from the state health commissioner. A personal services agency may not be opened, operated, managed, or maintained or conduct business without a license from the state department. Each parent personal services agency must obtain a separate license.

(b) A parent personal services agency may maintain branch offices that operate under the license of the parent personal services agency. Each branch office must be:

(1) at a location or site from which the personal services agency provides services;

(2) owned and controlled by the parent personal services agency; and

(3) located within a radius of one hundred twenty (120) miles of the parent personal services agency.

(c) A license is required for any personal services agency providing services in Indiana. An out-of-state personal services agency must be authorized by the secretary of state to conduct business in Indiana and have a branch office in Indiana.

(d) Application for a license to operate a personal services agency must be:

(1) made on a form provided by the state department; and ~~must be~~

(2) accompanied by the payment of a fee of two hundred fifty dollars ($250).

However, if the state department does not make forms available to applicants, the state department shall accept an application for a personal services agency license in any form. The application may not ~~require any~~ **seek any more** information ~~except as~~ **than the information** required under this chapter. **To the extent that an application form requests additional information, the state department may not deny the application of an applicant for refusing to provide the additional information.**

(e) ~~After receiving~~ **Upon receipt of** a completed application, ~~that~~ **the state department shall review the application to ensure that the information required by section 6.1 of this chapter is provided. If the application contains all of the required information, the information provided by the applicant** demonstrates **the applicant's** prima facie compliance with the requirements of this chapter, and **if** the ~~payment of~~ **applicant has paid** the fee required by subsection (d), the state department shall issue ~~a~~ **an initial** license to the applicant to operate a personal services agency. **If, after reviewing an application,** the state department **is not satisfied that the applicant has demonstrated prima facie compliance with this chapter, the state department** may conduct an ~~onsite~~ inspection **to determine whether the applicant demonstrates prima facie compliance with this chapter. Any inspection must be completed not more than sixty (60) days after the date that the state department receives the application. The state department must either:**

(1) issue the initial license to the applicant; or

(2) deny the application for the initial license;

within sixty (60) days after the date that the state department receives the application. If the state department fails to act upon an application within sixty (60) days, the application shall be treated as if it were approved, and the state department shall issue an initial license to the applicant.

(f) The state department may conduct an onsite inspection in conjunction with ~~the issuance of an initial license or~~ the renewal of a license.

~~(f)~~ **(g)** In the state department's consideration of:

(1) an application for licensure;

(2) an application for renewal of licensure;

(3) a complaint alleging noncompliance with the requirements of this chapter; or

(4) an investigation conducted under section 7(a) of this chapter;

the state department's onsite inspections in conjunction with those actions are limited to determining the personal service agency's compliance with the requirements of this chapter or permitting or aiding an illegal act in a personal services agency.

~~(g)~~ **(h)** Subject to ~~subsection~~ **subsections** (e) **and (f),** when conducting an onsite inspection, the state department must receive all documents necessary to determine the personal service agency's compliance with the requirements of this chapter. A personal services agency must produce documents requested by the state department surveyor not less than twenty-four (24) hours after the documents have been requested.

~~(h)~~ **(i)** A license expires one (1) year after the date of issuance of the license under subsection (e). However, the state department may issue an initial license for a period of less than one (1) year to stagger the expiration dates. The licensee shall notify the state department in writing at least thirty (30) days before closing or selling the personal services agency. **The holder of a license for a personal services agency must renew its license each year. A renewal application must:**

(1) state the name of the personal services agency;

(2) state the license number; and

(3) provide information concerning any changes that have occurred in the information provided to the state department in the initial application or a renewal application.

The renewal application must be accompanied by a renewal fee in an amount equal to the fee imposed for an initial license. Upon receipt of a renewal application and the accompanying fee, the state department shall issue a renewal license. A renewal license expires one (1) year after the date of issuance.

~~(i)~~ **(j)** A personal services agency license may not be transferred or assigned. Upon sale, assignment, lease, or other transfer, including transfers that qualify as a change in ownership, the new owner or person in interest must obtain a license from the state department under this chapter before maintaining, operating, or conducting the personal services agency.

~~(j)~~ **(k)** A home health agency licensed under IC 16-27-1 that operates a personal services agency within the home health agency is subject to the requirements of this chapter. The requirements under IC 16-27-1 do not apply to a home health agency's personal services agency. The requirements under this chapter do not apply to a home health agency's operations. A home health agency that is licensed under IC 16-27-1 is not required to obtain a license under this chapter.

~~(k)~~ **(l)** If a person who is licensed to operate a personal services agency is also licensed to operate a home health agency under IC 16-27-1, an onsite inspection for renewal of the person's personal services agency license must, to the extent feasible, be conducted at the same time as an onsite inspection for the home health agency license.

SECTION 3. IC 16-27-4-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.1. (a) An application under section 4 of this chapter for an initial license for a personal services agency must include the following information:**

(1) The name, address, voice telephone number, and fax number of the applicant. If the applicant has any branch locations, the application must include the address, voice telephone number, and fax number for each branch location.

(2) A description of the applicant's type or form of business.

(3) The name and office voice telephone number of the applicant's manager required under section 9 of this chapter, including the after hours contact telephone number to be used by clients.

(4) If the manager specified under subdivision (3) has designated any individual to act in the manager's place:

(A) the name and office voice telephone number for each designee; and

(B) a description of the responsibilities that have been delegated to each designee.

(5) The ownership, control, and management disclosures required under section 17(b) of this chapter.

(6) A description of the personal services that the applicant will provide.

(7) A list of the counties in which the applicant will provide personal services.

(8) A disclosure of whether the owners or managers have been involved with an individual or entity that has been denied a license to operate as a personal services agency or has had its license to operate as a personal services agency revoked.

(b) The following information must accompany an application for an initial license for a personal services agency:

(1) If the applicant is not a sole proprietorship, a copy of the organizing or incorporating documents that were

filed with the secretary of state of the jurisdiction in which the applicant was created. If the applicant is an out-of-state entity, the applicant must include a copy of any documents filed by the personal services agency with the Indiana secretary of state.

(2) If an applicant is doing business under a name other than the name of the applicant, a copy of the document that was filed in Indiana to register the name.

(3) A copy of the Internal Revenue Service Form SS-4 or other documentation confirming the applicant's name and federal employer identification number.

(4) The following:

(A) A copy of the applicant's patient bill of rights.

(B) A copy of the applicant's form service plan.

(C) A copy of the applicant's policies and procedures relating to preparing, reviewing, and revising service plans.

(D) A copy of the applicant's policies and procedures for client satisfaction review, including any forms used for this purpose.

(E) A copy of the applicant's policies and procedures for responding to and investigating a client complaint.

(F) A copy of the applicant's policies and procedures for evaluating and training employees.

(5) Documentation showing that the applicant has evaluated and trained its employees as required by section 16 of this chapter and has performed tuberculosis testing as required by section 15 of this chapter.

SECTION 4. IC 16-27-4-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 24. The attorney general may do any combination of the following:**

(1) Seek an injunction of a violation described in section 23 of this chapter in a circuit or superior court of the county where the violation occurred.

(2) Initiate a complaint with a prosecuting attorney to prosecute a violation described in section 23 of this chapter.

SECTION 5. IC 16-28-11-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. (a) This section does not apply to the implementation of a do not resuscitate order.**

(b) This article does not require an employee of a health facility to provide cardiopulmonary resuscitation (CPR) or other intervention on a patient if a licensed nurse who is employed by the health facility has determined that the following criteria have been met:

(1) The patient has experienced an unwitnessed cessation of circulatory and respiratory functions.

(2) The patient is unresponsive.

(3) The patient's pupils are fixed and dilated.

(4) The patient's body temperature indicates hypothermia.

(5) The patient has generalized cyanosis.

(6) The patient has livor mortis.".

Page 3, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 8. IC 25-1-7-9, AS AMENDED BY HEA 1084-2007, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. A board member is disqualified from any consideration of the case if the board member filed the complaint or participated in negotiations regarding the complaint. The board member is not disqualified from the board's final determination solely because the board member was the hearing officer or determined the complaint and the information pertaining to the complaint was current significant investigative information (as defined by ~~IC 25-23.2-1-5) (repealed)).~~ **IC 25-23.3-2-6).**

SECTION 9. IC 25-1-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) All complaints and information pertaining to the complaints shall be held in strict confidence until the attorney general files notice with the board of the attorney general's intent to prosecute the licensee.

(b) A person in the employ of the office of attorney general or any of the boards, or any person not a party to the complaint, may not disclose or further a disclosure of information concerning the complaint unless the disclosure is required:

(1) under law; or

(2) for the advancement of an investigation.

~~(c) Notwithstanding subsections (a) and (b), under IC 25-23.2 the state board of nursing may disclose to the coordinated licensure information system (as defined by IC 25-23.2-1-4) complaints and information concerning complaints that the board determines to be current significant investigative information (as defined by IC 25-23.2-1-5).~~

(c) Notwithstanding subsections (a) and (b), under IC 25-23.3, the state board of nursing may disclose to the coordinated licensure information system (as defined in IC 25-23.3-2-5) complaints and information concerning complaints that the board determines to be current significant investigative information (as defined in IC 25-23.3-2-6).".

Page 13, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 19. IC 25-2.5-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Subject to section 1 of this chapter, it is unlawful to practice acupuncture without a license issued under this article.

(b) Subject to subsection (c), it is unlawful for a licensed acupuncturist, other than a chiropractor licensed under IC 25-10, podiatrist licensed under IC 25-29, or dentist licensed under IC 25-14, to practice acupuncture on a patient unless the acupuncturist obtains:

(1) a written letter of referral; ~~and~~

(2) ~~either:~~ ~~(A)~~ a written diagnosis of the patient; or

~~(B)~~ **(3)** written documentation relating to the condition for which the patient receives acupuncture;

from an individual licensed under IC 25-22.5 within the twelve (12) months immediately preceding the date of acupuncture treatment.

(c) An acupuncturist licensed under this article may practice auricular acupuncture on a patient for the purpose of treating alcoholism, substance abuse, or chemical dependency without a written letter of referral or written diagnosis from a physician licensed under IC 25-22.5.

(d) If a licensed acupuncturist practices acupuncture on a patient after having obtained a written letter of referral or written diagnosis of the patient from a physician licensed under IC 25-22.5 as described in subsection (b), the physician is immune from civil liability relating to the patient's or acupuncturist's use of that diagnosis or referral except for acts or omissions of the physician that amount to gross negligence or willful or wanton misconduct.".

Page 29, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 49. IC 25-23-1-1.1, AS AMENDED BY HEA 1084-2007, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.1. (a) As used in this chapter, "registered nurse" means a person who holds a valid license issued:

(1) under this chapter; **or**

(2) by a party state (as defined in IC 25-23.3-2-12); and who bears primary responsibility and accountability for nursing practices based on specialized knowledge, judgment, and skill derived from the principles of biological, physical, and behavioral sciences.

(b) As used in this chapter, "registered nursing" means performance of services which include but are not limited to:

(1) assessing health conditions;

(2) deriving a nursing diagnosis;

(3) executing a nursing regimen through the selection, performance, and management of nursing actions based on nursing diagnoses;

(4) advocating the provision of health care services through collaboration with or referral to other health professionals;

(5) executing regimens delegated by a physician with an unlimited license to practice medicine or osteopathic medicine, a licensed dentist, a licensed chiropractor, a licensed optometrist, or a licensed podiatrist;

(6) teaching, administering, supervising, delegating, and evaluating nursing practice;

(7) delegating tasks which assist in implementing the nursing, medical, or dental regimen; or

(8) performing acts which are approved by the board or by the board in collaboration with the medical licensing board of Indiana.

(c) As used in this chapter, "assessing health conditions" means the collection of data through means such as interviews, observation, and inspection for the purpose of:

(1) deriving a nursing diagnosis;

(2) identifying the need for additional data collection by nursing personnel; and

(3) identifying the need for additional data collection by other health professionals.

(d) As used in this chapter, "nursing regimen" means preventive, restorative, maintenance, and promotion activities which include meeting or assisting with self-care needs, counseling, and teaching.

(e) As used in this chapter, "nursing diagnosis" means the identification of needs which are amenable to nursing regimen.

SECTION 50. IC 25-23-1-1.2, AS AMENDED BY HEA 1084-2007, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.2. As used in this chapter, "licensed practical nurse" means a person who holds a valid license issued under this chapter **or by a party state (as defined in IC 25-23.3-2-12)** and who functions at the direction of:

(1) a registered nurse;

(2) a physician with an unlimited license to practice medicine or osteopathic medicine;

(3) a licensed dentist;

(4) a licensed chiropractor;

(5) a licensed optometrist; or

(6) a licensed podiatrist;

in the performance of activities commonly performed by practical nurses and requiring special knowledge or skill.

SECTION 51. IC 25-23-1-7, AS AMENDED BY HEA 1084-2007, SECTION 172, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The board shall do the following:

(1) Adopt under IC 4-22-2 rules necessary to enable it to carry into effect this chapter.

(2) Prescribe standards and approve curricula for nursing education programs preparing persons for licensure under this chapter.

(3) Provide for surveys of such programs at such times as it considers necessary.

(4) Accredit such programs as meet the requirements of this chapter and of the board.

(5) Deny or withdraw accreditation from nursing education programs for failure to meet prescribed curricula or other standards.

(6) Examine, license, and renew the license of qualified applicants.

(7) Issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings.

(8) Cause the prosecution of all persons violating this chapter and have power to incur necessary expenses for these prosecutions.

(9) Adopt rules under IC 4-22-2 that do the following:

(A) Prescribe standards for the competent practice of registered, practical, and advanced practice nursing.

(B) Establish with the approval of the medical licensing board created by IC 25-22.5-2-1 requirements that advanced practice nurses must meet to be granted authority to prescribe legend drugs and to retain that authority.

(C) Establish, with the approval of the medical licensing board created by IC 25-22.5-2-1, requirements for the renewal of a practice agreement under section 19.4 of this chapter, which shall expire on October 31 in each odd-numbered year.

(10) Keep a record of all its proceedings.

(11) Collect and distribute annually demographic information on the number and type of registered nurses and licensed practical nurses employed in Indiana.

(12) Adopt rules and administer the interstate nurse licensure compact under IC 25-23.3.

(b) The board may do the following:

(1) Create ad hoc subcommittees representing the various nursing specialties and interests of the profession of nursing. Persons appointed to a subcommittee serve for terms as determined by the board.

(2) Utilize the appropriate subcommittees so as to assist the board with its responsibilities. The assistance provided by the subcommittees may include the following:

(A) Recommendation of rules necessary to carry out the duties of the board.

(B) Recommendations concerning educational programs and requirements.

(C) Recommendations regarding examinations and licensure of applicants.

(3) Appoint nurses to serve on each of the ad hoc subcommittees.

(4) Withdraw from the interstate nurse licensure compact under IC 25-23.3.

(c) Nurses appointed under subsection (b) must:

(1) be committed to advancing and safeguarding the nursing profession as a whole; and

(2) represent nurses who practice in the field directly affected by a subcommittee's actions.

SECTION 52. IC 25-23-1-11, AS AMENDED BY HEA 1084-2007, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) Any person who applies to the board for a license to practice as a registered nurse must:

(1) not have:

(A) been convicted of a crime that has a direct bearing on the person's ability to practice competently; or

(B) committed an act that would constitute a ground for a disciplinary sanction under IC 25-1-9;

(2) have completed:

(A) the prescribed curriculum and met the graduation requirements of a state accredited program of registered nursing that only accepts students who have a high school diploma or its equivalent as determined by the board; or

(B) the prescribed curriculum and graduation requirements of a nursing education program in a foreign country that is substantially equivalent to a board approved program as determined by the board. The board may by rule adopted under IC 4-22-2 require an applicant under this subsection to successfully

complete an examination approved by the board to measure the applicant's qualifications and background in the practice of nursing and proficiency in the English language; and

(3) be physically and mentally capable of and professionally competent to safely engage in the practice of nursing as determined by the board.

The board may not require a person to have a baccalaureate degree in nursing as a prerequisite for licensure.

(b) The applicant must pass an examination in such subjects as the board may determine.

(c) The board may issue by endorsement a license to practice as a registered nurse to an applicant who has been licensed as a registered nurse, by examination, under the laws of another state if the applicant presents proof satisfactory to the board that, at the time that the applicant applies for an Indiana license by endorsement, the applicant holds a current license in another state and possesses credentials and qualifications that are substantially equivalent to requirements in Indiana for licensure by examination. The board may specify by rule what constitutes substantial equivalence under this subsection.

(d) The board may issue by endorsement a license to practice as a registered nurse to an applicant who:

(1) has completed the English version of the:

(A) Canadian Nurse Association Testing Service Examination **(CNAT); or**

(B) Canadian Registered Nurse Examination (CRNE);

(2) achieved the passing score required on the examination at the time the examination was taken;

(3) is currently licensed in a Canadian province or in another state; and

(4) meets the other requirements under this section.

(e) Each applicant for examination and registration to practice as a registered nurse shall pay a fee set by the board, ~~The board may set a proctoring fee to be paid by applicants who are graduates of a state accredited school in another state.~~ **a part of which must be used for the rehabilitation of impaired registered nurses and impaired licensed practical nurses.** Payment of the fee or fees shall be made by the applicant prior to the date of examination. **The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:**

(1) Twenty-five percent (25%) of the license application fee per license applied for under this section.

(2) The cost per license to operate the impaired nurses program, as determined by the Indiana professional licensing agency.

(f) Any person who holds a license to practice as a registered nurse in:

(1) Indiana; **or**

(2) a party state (as defined in IC 25-23.3-2-12);

may use the title "Registered Nurse" and the abbreviation "R.N.". No other person shall practice or advertise as or assume the title of registered nurse or use the abbreviation of "R.N." or any other words, letters, signs, or figures to indicate that the person using same is a registered nurse.

SECTION 53. IC 25-23-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) A person who applies to the board for a license to practice as a licensed practical nurse must:

(1) not have been convicted of:

(A) an act which would constitute a ground for disciplinary sanction under IC 25-1-9; or

(B) a crime that has a direct bearing on the person's ability to practice competently;

(2) have completed:

(A) the prescribed curriculum and met the graduation requirements of a state accredited program of practical nursing that only accepts students who have a high school diploma or its equivalent, as determined by the board; or

(B) the prescribed curriculum and graduation requirements of a nursing education program in a foreign country that is substantially equivalent to a board approved program as determined by the board. The board may by rule adopted under IC 4-22-2 require an applicant under this subsection to successfully complete an examination approved by the board to measure the applicant's qualifications and background in the practice of nursing and proficiency in the English language; and

(3) be physically and mentally capable of, and professionally competent to, safely engage in the practice of practical nursing as determined by the board.

(b) The applicant must pass an examination in such subjects as the board may determine.

(c) The board may issue by endorsement a license to practice as a licensed practical nurse to an applicant who has been licensed as a licensed practical nurse, by examination, under the laws of another state if the applicant presents proof satisfactory to the board that, at the time of application for an Indiana license by endorsement, the applicant possesses credentials and qualifications that are substantially equivalent to requirements in Indiana for licensure by examination. The board may specify by rule what shall constitute substantial equivalence under this subsection.

(d) Each applicant for examination and registration to practice as a practical nurse shall pay a fee set by the board, ~~The board may set a proctoring fee to be paid by applicants who are graduates of a state accredited school in another state.~~ **a part of which must be used for the rehabilitation of impaired registered nurses and impaired licensed practical nurses.** Payment of the fees shall be made by the applicant before the date of examination. **The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:**

(1) Twenty-five percent (25%) of the license application fee per license applied for under this section.

(2) The cost per license to operate the impaired nurses program, as determined by the Indiana professional licensing agency.

(e) Any person who holds a license to practice as a licensed practical nurse in:

(1) Indiana; or

(2) a party state (as defined in ~~IC 25-23.2-1-11);~~ **IC 25-23.3-2-12);**

may use the title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person shall practice or advertise as or assume the title of licensed practical nurse or use the abbreviation of "L.P.N." or any other words, letters, signs, or figures to indicate that the person using them is a licensed practical nurse.

SECTION 54. IC 25-23-1-16.1, AS AMENDED BY P.L.1-2006, SECTION 451, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16.1. (a) A license to practice as a registered nurse expires on October 31 in each odd-numbered year. Failure to renew the license on or before the expiration date will automatically render the license invalid without any action by the board.

(b) A license to practice as a licensed practical nurse expires on October 31 in each even-numbered year. Failure to renew the license on or before the expiration date will automatically render the license invalid without any action by the board.

(c) The procedures and fee for renewal shall be set by the board.

(d) At the time of license renewal, each registered nurse and each licensed practical nurse shall pay a renewal fee, a portion of which shall be for the rehabilitation of impaired registered nurses and impaired licensed practical nurses. The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:

(1) ~~Sixteen percent (16%)~~ **Twenty-five percent (25%)** of the license renewal fee per license renewed under this section.

(2) The cost per license to operate the impaired nurses program, as determined by the Indiana professional licensing agency.

SECTION 55. IC 25-23-1-27, AS AMENDED BY HEA 1084-2007, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. A person who:

(1) sells or fraudulently obtains or furnishes any nursing diploma, license, or record;

(2) practices nursing under cover of any diploma or license or record illegally or fraudulently obtained or assigned or issued unlawfully or under fraudulent representation;

(3) practices nursing as a registered nurse or licensed practical nurse unless licensed to do so under this chapter **or under IC 25-23.3;**

(4) uses in connection with the person's name any designation tending to imply that the person is a registered nurse or a licensed practical nurse unless licensed to practice under this chapter **or under IC 25-23.3;**

(5) practices nursing during the time the person's license issued under this chapter **or under IC 25-23.3** is suspended or revoked;

(6) conducts a school of nursing or a program for the training of practical nurses unless the school or program has been accredited by the board; or

(7) otherwise violates this chapter;

commits a Class B misdemeanor.

SECTION 56. IC 25-23-1-34, AS AMENDED BY HEA 1084-2007, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 34. (a) The impaired nurses account is established within the state general fund for the purpose of providing money for providing rehabilitation of impaired registered nurses or licensed practical nurses under this article. The account shall be administered by the Indiana professional licensing agency.

(b) Expenses of administering the account shall be paid from money in the account. The account consists of the following:

(1) Funds collected for the rehabilitation of impaired registered nurses and impaired licensed practical nurses under ~~section~~ **sections 11(e), 12(d), and** 16.1(d) of this chapter.

(2) Funds collected under section 31(c)(2) of this chapter.

~~(3) Funds collected for the rehabilitation of impaired registered nurses and impaired licensed practical nurses under IC 25-23.2-3-5 (repealed).~~

~~(4)~~ **(3)** Fines collected from registered nurses or licensed practical nurses under IC 25-1-9-9(a)(6).

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(d) Money in the account is appropriated to the board for the purpose stated in subsection (a).

SECTION 57. IC 25-23.3 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

ARTICLE 23.3. INTERSTATE NURSE LICENSURE COMPACT

Chapter 1. Purpose

Sec. 1. It is the purpose of this compact to allow qualified nurses who are licensed in a compact state to practice nursing in another compact state and to reduce redundant licensing requirements of nurses who practice in multiple states.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Adverse action" means a home or remote state action.

Sec. 3. "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

Sec. 4. "Board" has the meaning set forth in IC 25-23-1-1.

Sec. 5. "Coordinated licensure information system" means an integrated process:

(1) for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws; and

(2) administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

Sec. 6. "Current significant investigative information" means:

(1) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(2) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and has had an opportunity to respond.

Sec. 7. "Home state" means the party state that is a nurse's primary state of residence.

Sec. 8. "Home state action" means any administrative, civil, equitable, or criminal action permitted by the home state's laws that are imposed on a nurse by the home state's licensing board or other authority, including an action against an individual's license, such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice.

Sec. 9. "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

Sec. 10. "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in that party state. All party states have the authority, in accordance with state due process law, to take actions against the nurse's privilege, such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice.

Sec. 11. "Nurse" means a registered nurse or licensed practical/vocational nurse as defined by the state practice laws of each party state.

Sec. 12. "Party state" means any state that has adopted this compact.

Sec. 13. "Remote state" means a party state, other than the home state:

(1) where a patient is located at the time nursing care is provided; or

(2) in the case of the practice of nursing not involving a patient, in a party state where the recipient of nursing practice is located.

Sec. 14. "Remote state action" means:

(1) any administrative, civil, equitable, or criminal action permitted by a remote state's laws that are imposed on a nurse by the remote state's licensing board or other authority, including actions against an individual's multistate licensure privilege to practice in the remote state; and

(2) cease and desist and other injunctive or equitable

orders issued by remote states or the licensing boards of remote states.

Sec. 15. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Sec. 16. "State practice laws" means the individual party state's laws and rules that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. The term does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

Chapter 3. General Provisions and Jurisdiction

Sec. 1. A license to practice registered nursing issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in the party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in the party state. To obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal and all other applicable state laws.

Sec. 2. Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such an action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

Sec. 3. A nurse practicing in a party state must comply with the state practice laws of the state in which a patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but includes all nursing practice as defined by the state practice laws of a party state. The practice of nursing subjects a nurse to the jurisdiction of the nurse licensing board, the courts, and the laws in that party state.

Sec. 4. This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if a license is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

Sec. 5. Individuals not residing in a party state continue to be able to apply for nurse licensure as provided under the laws of each party state. However, the license granted to these individuals is not recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

Chapter 4. Applications for Licensure in a Party State

Sec. 1. Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other party state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

Sec. 2. A nurse in a party state may hold licensure in only one (1) party state at a time, issued by the home state.

Sec. 3. A nurse who intends to change primary state of residence may apply for licensure in the new home state before the change. However, a new license may not be issued by a party state until a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

Sec. 4. (a) If a nurse:

(1) changes primary state of residence by moving between two (2) party states; and

(2) obtains a license from the new home state;

the license from the former home state is no longer valid.

(b) If a nurse:

(1) changes primary state or residence by moving from a nonparty state to a party state; and

(2) obtains a license from the new home state;

the individual state license issued by the nonparty state is not affected and remains in force if provided by the laws of the nonparty state.

(c) If a nurse changes primary state of residence by moving from a party state to a nonparty state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without multistate license privilege to practice in other party states.

Chapter 5. Adverse Actions

Sec. 1. The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions, including the factual and legal basis for such actions, if known. The licensing board of a remote state shall promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

Sec. 2. The licensing board of a party state has authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. The licensing board also has authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

Sec. 3. A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state has authority to impose adverse action against the license issued by the home state.

Sec. 4. For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

Sec. 5. The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

Sec. 6. This compact does not override a party state's decision that participation in an alternative program may be used instead of licensure action and that such participation shall remain nonpublic if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from the other party state.

Chapter 6. Additional Authority Invested in Party State Nurse Licensing Boards

Sec. 1. Notwithstanding any other powers, party state nurse licensing boards may:

(1) if otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;

(2) issue subpoenas for both hearings and investigations

that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses and the production of evidence from another party state shall be enforced in the latter state by a court with jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and evidence are located;

(3) issue cease and desist orders to limit or revoke a nurse's authority to practice in their state; and

(4) adopt uniform rules as provided for in IC 25-23.3-8-3.

Chapter 7. Coordinated Licensure Information System

Sec. 1. All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses and licensed practical/vocational nurses. This system includes information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

Sec. 2. Notwithstanding any other law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials to the coordinated licensure information system.

Sec. 3. Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

Sec. 4. Notwithstanding any other law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

Sec. 5. Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

Sec. 6. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

Sec. 7. The compact administrators, acting jointly and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

Chapter 8. Compact Administration and Interchange of Information

Sec. 1. The head of the nurse licensing board of each party state, or that person's designee, shall be the administrator of this compact for that person's state. For purposes of this article, the executive director of the Indiana professional licensing agency or the executive director's designee shall be the administrator of this compact.

Sec. 2. The compact administrator of each party state shall furnish to the compact administrator of each other party state any information and documents, including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information, to facilitate the administration of this compact.

Sec. 3. Compact administrators may develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by a board under IC 25-23.3-6-1.

Chapter 9. Immunity

Sec. 1. Neither a party state nor an officer, employee, or agent of a party state's nurse licensing board who acts in accordance with this compact is liable on account of any act or omission in good faith while engaged in the performance of duties under this compact. Good faith in this article does not include willful misconduct, gross negligence, or recklessness.

Chapter 10. Entry Into Force, Withdrawal, and Amendment

Sec. 1. This compact becomes effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact.

Sec. 2. No withdrawal affects the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring before the withdrawal.

Sec. 3. This compact shall not be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with this compact.

Sec. 4. This compact may be amended by the party states. No amendment to this compact becomes effective and binding upon the party states unless and until it is enacted into the laws of all party states.

Chapter 11. Construction and Severability

Sec. 1. This compact shall be liberally construed to effectuate its purposes. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or if the applicability of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of this compact to any government, agency, person, or circumstance is not affected thereby. If this compact is held contrary to the constitution of any party state, this compact remains in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to a severable matter.

Sec. 2. If party states find a need for settling disputes arising under this compact:

(1) the party states may submit the issues in dispute to an arbitration panel comprised of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in each remote state involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute; and

(2) the decision of a majority of the arbitrators is final and binding.

Sec. 3. This article expires July 1, 2011.

SECTION 58. IC 25-23.6-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** An individual may not:

(1) profess to be a licensed marriage and family therapist;

(2) use the title:

(A) "licensed marriage and family therapist";

(B) "marriage and family therapist"; or

(C) "family therapist";

(3) use any other words, letters, abbreviations, or insignia indicating or implying that the individual is a licensed marriage and family therapist; or

(4) practice marriage and family therapy for compensation;

unless the individual is licensed under ~~this article,~~ **IC 25-23.6-8-1,** IC 25-22.5, or IC 25-33.

(b) An individual may not:

(1) profess to be a licensed marriage and family therapist associate;

(2) use the title:

(A) "licensed marriage and family therapist associate";

(B) "marriage and family therapist associate"; or

(C) "family therapist associate";

(3) use any other words, letters, abbreviations, or insignia indicating or implying that the individual is a licensed marriage and family therapist associate; or

(4) practice marriage and family therapy for compensation;

unless the individual is licensed under IC 25-23.6-8-1.5, IC 25-22.5, or IC 25-33.

SECTION 59. IC 25-23.6-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. **(a)** An individual who is licensed **under IC 25-23.6-8-1** as a marriage and family therapist shall:

(1) display the license or a clear copy of the license at each location where the marriage and family therapist regularly practices; and

(2) include the words "licensed marriage and family therapist" or the letters "LMFT" on all promotional materials, including business cards, brochures, stationery, advertisements, and signs that name the individual.

(b) An individual who is licensed under IC 25-23.6-8-1.5 as a marriage and family therapist associate shall:

(1) display the license or a clear copy of the license at each location where the marriage and family therapist associate regularly practices; and

(2) include the words "licensed marriage and family therapist associate" or the letters "LMFTA" on all promotional materials, including business cards, brochures, stationery, advertisements, and signs that name the individual.

SECTION 60. IC 25-23.6-8-1, AS AMENDED BY SEA 526-2007, SECTION 337, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. An individual who applies for a license as a marriage and family therapist must meet the following requirements:

(1) Furnish satisfactory evidence to the board that the individual has:

(A) received a master's or doctor's degree in marriage and family therapy, or in a related area as determined by the board from an eligible postsecondary educational institution that meets the requirements under section 2.1(a)(1) of this chapter or from a foreign school that has a program of study that meets the requirements under section 2.1(a)(2) or (2.1)(a)(3) of this chapter; and

(B) completed the educational requirements under section 2.5 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual has met the clinical experience requirements under section 2.7 of this chapter.

(3) Furnish satisfactory evidence to the board that the individual:

(A) holds a marriage and family therapist associate license, in good standing, under section 1.5 of this chapter; or

(B) is licensed or certified to practice as a marriage and family therapist in another state and is otherwise qualified under this chapter.

~~(2)~~ **(4)** Furnish satisfactory evidence to the board that the individual does not have a conviction for a crime that has a direct bearing on the individual's ability to practice competently.

~~(3)~~ **(5)** Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a marriage and family therapist without endangering the public.

~~(4)~~ **(6)** Pass an examination provided by the board.

~~(5)~~ **(7)** Pay the fee established by the board.

SECTION 61. IC 25-23.6-8-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. An individual who applies for a license as a marriage and family therapist associate must meet the following requirements:**

(1) Furnish satisfactory evidence to the board that the individual has:

(A) received a master's or doctor's degree in marriage and family therapy, or in a related area as determined by the board, from an eligible postsecondary educational institution that meets the requirements under section 2.1(a)(1) of this chapter or from a foreign school that has a program of study that meets the requirements under section 2.1(a)(2) or 2.1(a)(3) of this chapter; and

(B) completed the educational requirements under section 2.5 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual does not have a conviction for a crime that has a direct bearing on the individual's ability to practice competently.

(3) Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a marriage and family therapist without endangering the public.

(4) Pass an examination provided by the board.

(5) Pay the fee established by the board.

SECTION 62. IC 25-23.6-8-2.1, AS AMENDED BY SEA 526-2007, SECTION 338, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.1. (a) An applicant **for a license as a marriage and family therapist** under section 1 of this chapter **or an applicant for a license as a marriage and family therapist associate under section 1.5 of this chapter** must have received a master's or doctor's degree in marriage and family therapy, or in a related area as determined by the board, from an eligible postsecondary institution that meets the following requirements:

(1) If the institution was located in the United States or a territory of the United States, at the time of the applicant's graduation the institution was accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

(2) If the institution was located in Canada, at the time of the applicant's graduation the institution was a member in good standing with the Association of Universities and Colleges of Canada.

(3) If the institution was located in a foreign country other than Canada, at the time of the applicant's graduation the institution:

(A) was recognized by the government of the country where the school was located as a program to train in the practice of marriage and family therapy or psychotherapy; and

(B) maintained a standard of training substantially equivalent to the standards of institutions accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

(b) An applicant **for a license as a marriage and family therapist** under section 1 of this chapter **or an applicant for a license as a marriage and family therapist associate under section 1.5 of this chapter** who has a master's or doctoral

degree from a program that did not emphasize marriage and family therapy may complete the coursework requirement from an institution that is:

(1) accredited by the Commission on Accreditation for Marriage and Family Therapy Education; and

(2) recognized by the United States Department of Education.

SECTION 63. IC 25-23.6-8-2.5, AS AMENDED BY SEA 526-2007, SECTION 339, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. (a) An applicant **for a license as a marriage and family therapist** under section 1 **of this chapter or an applicant for a license as a marriage and family therapist associate under section 1.5** of this chapter must complete the following educational requirements:

(1) Except as provided in subsection (b), ~~complete~~ twenty-seven (27) semester hours or forty-one (41) quarter hours of graduate coursework that must include graduate level course credits with material in at least the following content areas:

(A) Theoretical foundations of marriage and family therapy.

(B) Major models of marriage and family therapy.

(C) Individual development.

(D) Family development and family relationships.

(E) Clinical problems.

(F) Collaboration with other disciplines.

(G) Sexuality.

(H) Gender and sexual orientation.

(I) Issues of ethnicity, race, socioeconomic status, and culture.

(J) Therapy techniques.

(K) Behavioral research that focuses on the interpretation and application of research data as it applies to clinical practice.

The content areas may be combined into any one (1) graduate level course, if the applicant can prove that the coursework was devoted to each content area.

(2) Not less than one (1) graduate level course of two (2) semester hours or three (3) quarter hours in the following areas:

(A) Legal, ethical, and professional standards issues in the practice of marriage and family therapy or an equivalent course approved by the board.

(B) Appraisal and assessment for individual or interpersonal disorder or dysfunction.

(3) At least one (1) supervised clinical practicum, internship, or field experience in a marriage and family counseling setting that meets the following requirements:

(A) The applicant provided five hundred (500) face to face client contact hours of marriage and family therapy services under the supervision of a licensed marriage and family therapist who has at least five (5) years of experience or a qualified supervisor approved by the board.

(B) The applicant received one hundred (100) hours of supervision from a licensed marriage and family therapist who has at least five (5) years experience as a qualified supervisor.

The requirements under ~~subdivisions~~ **clauses** (A) and (B) may be met by a supervised practice experience that took place away from an institution of higher education but that is certified by an official of the eligible postsecondary educational institution as being equivalent to a graduate level practicum or internship program at an institution accredited by an accrediting agency approved by the United States Department of Education Commission on Recognition of Postsecondary Education, the Association of Universities and Colleges of Canada, or the Commission on Accreditation for Marriage and Family Therapy Education.

(b) The following graduate work may not be used to satisfy the content area requirements under subsection (a):

(1) Thesis or dissertation work.

(2) Practicums, internships, or fieldwork.".

Page 29, line 36, after "applicant" insert "**for a license as a marriage and family therapist**".

Page 30, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 65. IC 25-23.6-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. An individual who satisfies the requirements of ~~sections 1 and 2~~ **section 1** of this chapter, **except for the requirement under section 1(6) of this chapter,** may take the examination provided by the board.

SECTION 66. IC 25-23.6-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. The board shall issue a **marriage and family therapist** license to an individual who:

(1) achieves a passing score, as determined by the board, on the examination provided under this chapter; and

(2) is otherwise qualified under this article.

SECTION 67. IC 25-23.6-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) A **marriage and family therapist** license issued by the board is valid for the remainder of the renewal period in effect on the date the license was issued.

(b) An individual may renew a **marriage and family therapist** license by:

(1) paying a renewal fee on or before the expiration date of the license; and

(2) completing not less than fifteen (15) hours of continuing education each licensure year.

(c) If an individual fails to pay a renewal on or before the expiration date of a license, the license becomes invalid.

SECTION 68. IC 25-23.6-8-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8.5. (a) A marriage and family therapist associate license issued by the board is valid for the remainder of the renewal period in effect on the date the license was issued.**

(b) An individual may renew a marriage and family therapist associate license one (1) time by paying a renewal fee on or before the expiration date of the license.

(c) If an individual fails to pay a renewal on or before the expiration date of a license, the license becomes invalid.

SECTION 69. IC 25-23.6-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The board may reinstate an invalid **marriage and family therapist** license **issued under section 1 of this chapter** up to three (3) years after the expiration date of the license if the individual holding the invalid license meets the requirements under IC 25-1-8-6.

(b) If more than three (3) years have elapsed since the date a **marriage and family therapist** license expired, the individual holding the license may renew the license by satisfying the requirements for renewal established by the board and meeting the requirements under IC 25-1-8-6.

(c) The board may reinstate an invalid marriage and family therapist associate license issued under section 1.5 of this chapter up to six (6) months after the expiration date of the license if the individual holding the invalid license meets the requirements under IC 25-1-8-6.

SECTION 70. IC 25-23.6-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) An individual who is licensed **as a marriage and family therapist** under **section 1 of** this ~~article~~ **chapter** shall notify the board in writing when the individual retires from practice.

(b) Upon receipt of the notice, the board shall:

(1) record the fact the individual is retired; and

(2) release the individual from further payment of renewal fees and continuing education requirements.

SECTION 71. IC 25-23.6-8-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. An individual who applies for a **marriage and family therapist** license under **section 1 of** this ~~article~~ **chapter** may be exempted by the board from the examination requirement under this chapter if the individual:

(1) is licensed or certified to practice as a marriage and family therapist in another state; or

(2) has engaged in the practice of marriage and family therapy for at least three (3) of the previous five (5) years;

(3) has passed a licensing examination substantially equivalent to the licensing examination required under this article;

(4) has passed an examination pertaining to the marriage and family therapy laws and rules of this state; and

(5) has not committed any act or is not under investigation for any act that constitutes a violation of this article;

and is otherwise qualified under ~~sections~~ **section** 1 ~~and 2~~ of this chapter and pays an additional fee.".

Page 33, delete lines 6 through 42.

Delete pages 34 through 48.

Page 49, delete lines 1 through 2, begin a new paragraph and insert:

"SECTION 76. IC 36-7-4-201.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 201.2. (a) As used in this section, "home occupation" means an occupation, profession, activity, or use that:**

(1) is conducted entirely within an enclosed single family residence;

(2) is clearly an incidental and secondary use of the single family residence; and

(3) does not alter the exterior of the property or affect the residential character of the neighborhood.

(b) Subject to subsection (c), a zoning ordinance must allow one (1) or more occupants of a single family residence to engage in a home occupation of providing instruction in music.

(c) This section does not prohibit a unit from imposing conditions concerning noise, advertising, traffic, hours of operation, or any other condition relevant to the use of a single family residence for a home occupation.

(d) A zoning ordinance in violation of this section is void.".

Page 49, line 5, after "IC 25-8-16" delete "." and insert "; IC 25-23-1-28.".

Page 49, after line 34, begin a new paragraph and insert:

"SECTION 79. [EFFECTIVE JULY 1, 2007] **(a) Notwithstanding IC 25-23.3, as added by this act, IC 25-23.3 may not be implemented until July 1, 2008.**

(b) The Indiana state board of nursing shall, not later than June 30, 2008, adopt rules under IC 4-22-2 to administer IC 25-23.3, as added by this act.

(c) This SECTION expires July 1, 2008.".

Renumber all SECTIONS consecutively.

(Reference is to SB 335 as printed February 23, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 2.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred Engrossed Senate Bill 379, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 28 through 42, begin a new paragraph and insert:

"**(c) The following apply to a purchase or sale under subsection (a):**

(1) Except as provided in subdivisions (2) and (3), if the fiduciary relationship is a trust or an agency, the trustee or agent shall treat the purchase or sale under subsection (a) as if it were a conflict of interest transaction under IC 30-4-3-5 and shall give any notice and obtain any consent that may be required under IC 30-4-3-5, subject to the following:

(A) IC 30-2-14-16 applies to any notice required to be given by a trustee or an agent under this subdivision, subject to the following:

(i) If the fiduciary relationship is a revocable trust with one (1) or more living grantors, the trustee must give notice only to the living grantors, who shall be considered to have all income and principal interests in the trust at the time the notice is given. If a grantor is incapacitated, the trustee shall give notice to the grantor's court appointed guardian, the principal under a durable power of attorney, or a co-trustee of the revocable trust, unless the guardian, principal, or co-trustee is the bank or trust company that seeks the consent. If the representative of the incapacitated grantor is the bank or trust company that seeks the consent to a purchase or sale under subsection (a), the trustee shall obtain consent from the court.

(ii) If the fiduciary relationship is a revocable trust and the assets of the revocable trust are distributable to one (1) or more other trusts, notice shall be given to the trustees of the other trusts. However, if the bank or trust company that seeks the consent to a purchase or sale under subsection (a) is the trustee of another trust to which the assets of the revocable trust are distributable, the bank or trust company shall give notice to those beneficiaries of the other trust who are entitled to receive statements of account activity from the bank or trust company.

(iii) If the fiduciary relationship is an agency, the principal must consent to the purchase or sale under subsection (a) in writing in advance of the transaction. The principal shall be considered to have all income and principal interests in the account at the time the notice of the proposed transaction is given. If the principal is incapacitated, consent must be obtained from the principal's court appointed guardian, unless the guardian of the incapacitated principal is the bank or trust company that seeks the consent. If the guardian of the incapacitated principal is the bank or trust company that seeks the consent, consent to a purchase or sale under subsection (a) must be obtained from the court supervising the principal's guardianship.

(B) If the fiduciary relationship is a trust, the following apply with respect to any consent required to be obtained under IC 30-4-3-5(a)(2):

(i) Notwithstanding the requirement under IC 30-4-3-5(a)(2)(A) that all interested persons provide written consent to the proposed action, and subject to subdivision (2), a trustee, for a proposed purchase or sale under subsection (a), need only obtain the written consent of a majority of the persons entitled to notice under IC 30-2-14-16, as modified by this clause. However, the trustee must obtain the written

consent of at least one (1) beneficiary who is receiving income under the trust at the time of the notice and at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time notice is given.

(ii) Upon obtaining the written consents required under item (i), the trustee need not wait until the period to make written objections under IC 30-2-14-16 ends, in order to take the proposed action.

(2) Any consent granted under subdivision (1)(B)(i) may be revoked by a writing signed by a majority of the persons entitled to notice under IC 30-2-14-16, as modified by this clause. However, the revocation must be signed by:

(A) at least one (1) beneficiary who is receiving income under the trust at the time the revocation is signed; and

(B) at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time the revocation is signed.

(3) The notice and consent otherwise required under subdivision (1) are not required if the purchase or sale under subsection (a) is specifically authorized:

(A) in the document creating the fiduciary relationship; or

(B) under IC 30-4-3-7.".

Page 3, delete lines 1 through 6.

Page 4, line 3, delete "bank's or trust company's" and insert "**savings bank's**".

Page 4, delete lines 7 through 25, begin a new paragraph and insert:

(c) The following apply to a purchase or sale under subsection (a):

(1) Except as provided in subdivisions (2) and (3), if the fiduciary relationship is a trust or an agency, the trustee or agent shall treat the purchase or sale under subsection (a) as if it were a conflict of interest transaction under IC 30-4-3-5 and shall give any notice and obtain any consent that may be required under IC 30-4-3-5, subject to the following:

(A) IC 30-2-14-16 applies to any notice required to be given by a trustee or an agent under this subdivision, subject to the following:

(i) If the fiduciary relationship is a revocable trust with one (1) or more living grantors, the trustee must give notice only to the living grantors, who shall be considered to have all income and principal interests in the trust at the time the notice is given. If a grantor is incapacitated, the trustee shall give notice to the grantor's court appointed guardian, the principal under a durable power of attorney, or a co-trustee of the revocable trust, unless the guardian, principal, or co-trustee is the savings bank that seeks the consent. If the representative of the incapacitated grantor is the savings bank that seeks the consent to a purchase or sale under subsection (a), the trustee shall obtain consent from the court.

(ii) If the fiduciary relationship is a revocable trust and the assets of the revocable trust are distributable to one (1) or more other trusts, notice shall be given to the trustees of the other trusts. However, if the savings bank that seeks the consent to a purchase or sale under subsection (a) is the trustee of another trust to which the assets of the revocable trust are distributable, the savings bank shall give notice to those beneficiaries of the other trust who are entitled to receive statements of account activity from the savings bank.

(iii) If the fiduciary relationship is an agency, the principal must consent to the purchase or sale under subsection (a) in writing in advance of the transaction. The principal shall be considered to have all income and principal interests in the account at the time the notice of the proposed transaction is given. If the principal is incapacitated, consent must be obtained from the principal's court appointed guardian, unless the guardian of the incapacitated principal is the savings bank that seeks the consent. If the guardian of the incapacitated principal is the savings bank that seeks the consent, consent to a purchase or sale under subsection (a) must be obtained from the court supervising the principal's guardianship.

(B) If the fiduciary relationship is a trust, the following apply with respect to any consent required to be obtained under IC 30-4-3-5(a)(2):

(i) Notwithstanding the requirement under IC 30-4-3-5(a)(2)(A) that all interested persons provide written consent to the proposed action, and subject to subdivision (2), a trustee, for a proposed purchase or sale under subsection (a), need only obtain the written consent of a majority of the persons entitled to notice under IC 30-2-14-16, as modified by this clause. However, the trustee must obtain the written consent of at least one (1) beneficiary who is receiving income under the trust at the time of the notice and at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time notice is given.

(ii) Upon obtaining the written consents required under item (i), the trustee need not wait until the period to make written objections under IC 30-2-14-16 ends, in order to take the proposed action.

(2) Any consent granted under subdivision (1)(B)(i) may be revoked by a writing signed by a majority of the persons entitled to notice under IC 30-2-14-16, as modified by this clause. However, the revocation must be signed by:

(A) at least one (1) beneficiary who is receiving income under the trust at the time the revocation is signed; and

(B) at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time the revocation is signed.

(3) The notice and consent otherwise required under subdivision (1) is not required if the purchase or sale under subsection (a) is specifically authorized:

(A) in the document creating the fiduciary relationship; or

(B) under IC 30-4-3-7.".

(Reference is to SB 379 as printed February 13, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 1.

BARDON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred Engrossed Senate Bill 403, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the

following:

SECTION 1. IC 24-5-24 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2007]:

Chapter 24. Security Freezes for Consumer Reports

Sec. 1. (a) As used in this chapter, "consumer" means an individual:

(1) whose principal residence is in Indiana; and

(2) whose credit information and history is recorded in a consumer report.

Sec. 2. (a) As used in this chapter, "consumer report" means any written, oral, or other communication of any information that:

(1) is made by a consumer reporting agency;

(2) bears on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and

(3) is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer's eligibility for credit to be used primarily for personal, family, or household purposes.

(b) The term includes a consumer's credit score.

Sec. 3. (a) As used in this chapter, "consumer reporting agency" means any person that, for monetary fees or dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating information concerning a consumer's credit or other information for the purpose of furnishing a consumer report to another person.

(b) The term does not include an entity designated as a commercially reasonable private consumer credit reporting entity under IC 24-4.5-7-404(5).

Sec. 4. As used in this chapter, "security freeze" means a designation placed on a consumer's consumer report:

(1) by a consumer reporting agency; and

(2) at the request of the consumer;

that prohibits the consumer reporting agency from releasing the consumer report without the authorization of the consumer.

Sec. 5. (a) A consumer may place a security freeze on the consumer's consumer report by:

(1) sending a written request by United States mail to a consumer reporting agency; or

(2) subject to subsection (d), making a request to a consumer reporting agency through a secure electronic mail connection provided by the consumer reporting agency.

(b) Except as provided in subsection (c) and section 11 of this chapter, a consumer reporting agency that receives a request under subsection (a) shall place a security freeze on the consumer's consumer report not later than five (5) business days after receipt of the request.

(c) A consumer reporting agency is not required to place a security freeze on a consumer report under this section if the consumer reporting agency determines that the request for a security freeze:

(1) is materially false; or

(2) does not clearly identify the person making the request as the consumer.

(d) Not later than January 1, 2009, a consumer reporting agency shall develop and make available to consumers a secure electronic mail connection by which a consumer can request:

(1) the placement of a security freeze on the consumer's consumer report under this section; or

(2) the same or a new personal identification number or password under section 6(b) of this chapter.

Sec. 6. (a) Not later than ten (10) business days after receiving a request for a security freeze under section 5 of this chapter, a consumer reporting agency shall issue to the consumer a written confirmation that a security freeze has been placed on the consumer's consumer report. The confirmation required by this section must include the following:

(1) A unique:

(A) personal identification number; or

(B) password;

other than the consumer's Social Security number, or any multiple digit segment of the consumer's Social Security number, to be used by the consumer to perform any of the acts described in subdivision (2).

(2) Written instructions explaining how the consumer may:

(A) release the consumer's consumer report to one (1) or more specified third parties;

(B) temporarily lift the security freeze for a specified period; or

(C) remove the security freeze.

(3) Written instructions explaining how the consumer may request, using one (1) of the methods described in section 5(a) of this chapter, that the consumer reporting agency issue the same or a new personal identification number or password to the consumer if the consumer:

(A) fails to retain the original personal identification number or password issued by the consumer reporting agency under subdivision (1); or

(B) wishes to obtain a new personal identification number or password of the consumer's own choosing.

(b) Upon receiving a request described in subsection (a)(3), the consumer reporting agency shall issue the same or a new personal identification number or password to the requesting consumer if the consumer has provided information sufficient to identify the consumer, as specified by the consumer reporting agency in the instructions provided to the consumer under subsection (a)(3). If the consumer's request is made using the method described in section 5(a)(1) of this chapter, the consumer reporting agency shall send, by United States mail, the requested personal identification number or password to the consumer not later than five (5) business days after receiving the consumer's request. If the consumer's request is made using the method described in section 5(a)(2) of this chapter, the consumer reporting agency shall issue the requested personal identification number or password not later than:

(1) fifteen (15) minutes after receiving the request, if the consumer reporting agency elects to issue the requested personal identification number or password by a secure electronic mail connection provided by the consumer reporting agency under section 5(d) of this chapter; or

(2) five (5) business days after receiving the request, if the consumer reporting agency elects to issue the requested personal identification number or password by United States mail.

Sec. 7. (a) Except as provided in section 10 of this chapter, if a security freeze has been placed on a consumer's consumer report, the consumer reporting agency that placed the security freeze on the consumer report shall not release the consumer's consumer report unless the consumer authorizes the consumer reporting agency to:

(1) release the consumer's consumer report to one (1) or more specified third parties; or

(2) temporarily lift the security freeze for a specified period.

(b) A consumer who seeks to authorize the release of the consumer's consumer report under subsection (a)(1) or (a)(2) shall request the release by contacting the consumer reporting agency by any method:

(1) described in section 5(a) of this chapter; or

(2) developed by the consumer reporting agency under subsection (d).

(c) A request by a consumer under subsection (b) must include the following:

(1) Information sufficient to identify the consumer, as specified by the consumer reporting agency in the instructions provided to the consumer under section 6(2) of this chapter.

(2) The unique personal identification number or password assigned to the consumer under section 6(1) or 6(3) of this chapter.

(3) If the consumer seeks a release of the consumer's consumer report under subsection (a)(1), information sufficient to identify the parties to whom the consumer report is to be released, as specified by the consumer reporting agency in the instructions provided to the consumer under section 6(2) of this chapter.

(4) If the consumer seeks to allow the release of the consumer's consumer report under subsection (a)(2), the period during which the security freeze is to be temporarily lifted.

(d) Not later than January 1, 2009, a consumer reporting agency shall develop and make available to consumers secure procedures to release a consumer's consumer report under subsection (a)(1), or to temporarily lift a security freeze under subsection (a)(2), within fifteen (15) minutes of receiving a request under subsection (b), by any of the following methods:

(1) Telephone.

(2) The Internet.

(3) Other electronic media.

The procedures developed by a consumer reporting agency under this subsection must require the consumer to provide the information set forth in subsection (c).

(e) A consumer reporting agency that receives a request from a consumer under this section shall comply with the request within the following time frames:

(1) Not later than three (3) business days after receiving the request, if the consumer makes the request by the method described in section 5(a)(1) of this chapter.

(2) Not later than fifteen (15) minutes after receiving the request, if the consumer makes the request using the method described in section 5(a)(2) of this chapter or by any method developed by the consumer reporting agency under subsection (d). However, a consumer reporting agency is not required to comply with a consumer's request within the fifteen (15) minute time frame set forth in this subdivision if:

(A) the consumer does not provide one (1) or more of the items listed in subsection (c); or

(B) the consumer reporting agency's ability to comply with the request within the fifteen (15) minute time frame set forth in this subdivision is prevented by any of the following:

(i) An act of God, including fire, an earthquake, a hurricane, a storm, or a similar natural disaster or phenomenon.

(ii) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrences.

(iii) An operational interruption, including an electrical failure, an unanticipated delay in the delivery of equipment or replacement parts, computer hardware or software failures inhibiting response time, or similar disruptions.

(iv) A governmental action, including an emergency order or regulation, a judicial action, a law enforcement action, or a similar directive.

(v) Regularly scheduled maintenance of, or updates to, the consumer reporting agency's computer systems, if the maintenance activities or updates occur other than during normal business hours.

(vi) Commercially reasonable maintenance of, or repairs to, the consumer reporting agency's computer systems, if the maintenance activities or repairs are unexpected or are necessitated by unanticipated conditions or malfunctions.

(vii) For a request made by telephone, receipt of a request under this section other than during the consumer reporting agency's normal business hours, including any extended business hours observed by the consumer reporting agency. The exemption provided by this item does not apply to a request made by a consumer through the Internet or other electronic media. A consumer reporting agency must comply with a request made by a consumer through the Internet or other electronic media within the fifteen (15) minute time frame set forth in this subdivision, even if the request is made at a time other than during the consumer reporting agency's normal or extended business hours.

Sec. 8. (a) A third party that requests a consumer's consumer report in connection with an application by the consumer for credit shall treat the application for credit as incomplete if:

(1) a security freeze has been placed on the consumer's consumer report;

(2) the consumer has not authorized the release of the consumer's consumer report under section 7 of this chapter; and

(3) the consumer reporting agency refuses to release the consumer report to the third party based on subdivisions (1) and (2).

(b) A consumer reporting agency that refuses under subsection (a)(3) to release a consumer report shall notify the third party requesting the consumer report of the existence of a security freeze as the basis for the refusal to release the consumer report to the third party.

(c) A consumer reporting agency shall not:

(1) state; or

(2) otherwise imply;

to a third party that the consumer's security freeze under this chapter reflects a negative credit score, history, report, or rating.

Sec. 9. (a) A security freeze remains in effect until the consumer who requested the security freeze requests that the security freeze be removed. A consumer who seeks to remove a security freeze shall request the removal by contacting the consumer reporting agency by any method:

(1) described in section 5(a) of this chapter; or

(2) developed by a consumer reporting agency under section 7(d) of this chapter for receiving a consumer's request to release a consumer report.

(b) A request by a consumer under subsection (a) must include the following:

(1) Information sufficient to identify the consumer, as specified by the consumer reporting agency in the instructions provided to the consumer under section 6(2) of this chapter.

(2) The unique personal identification number or password assigned to the consumer under section 6(1) or 6(3) of this chapter.

(c) Subject to subsection (d), a consumer reporting agency must remove a security freeze within the following time frames:

(1) Not later than three (3) business days after receiving a request under subsection (a), if the consumer makes

the request by the method described in section 5(a)(1) of this chapter.

(2) Not later than fifteen (15) minutes after receiving a request under subsection (a), if the consumer makes the request using the method described in section 5(a)(2) of this chapter or by any method developed by the consumer reporting agency under section 7(d) of this chapter. However, a consumer reporting agency is not required to comply with a consumer's request within the fifteen (15) minute time frame set forth in this subdivision if:

(A) the consumer does not provide one (1) or more of the items listed in subsection (b); or

(B) the consumer reporting agency's ability to comply with the request within the fifteen (15) minute time frame set forth in this subdivision is prevented by any of the following:

(i) An act of God, including fire, an earthquake, a hurricane, a storm, or a similar natural disaster or phenomenon.

(ii) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrences.

(iii) An operational interruption, including an electrical failure, an unanticipated delay in the delivery of equipment or replacement parts, computer hardware or software failures inhibiting response time, or similar disruptions.

(iv) A governmental action, including an emergency order or regulation, a judicial action, a law enforcement action, or a similar directive.

(v) Regularly scheduled maintenance of, or updates to, the consumer reporting agency's computer systems, if the maintenance activities or updates occur other than during normal business hours.

(vi) Commercially reasonable maintenance of, or repairs to, the consumer reporting agency's computer systems, if the maintenance activities or repairs are unexpected or are necessitated by unanticipated conditions or malfunctions.

(vii) For a request made by telephone, receipt of a request under this section other than during the consumer reporting agency's normal business hours, including any extended business hours observed by the consumer reporting agency. The exemption provided by this item does not apply to a request made by a consumer through the Internet or other electronic media. A consumer reporting agency must comply with a request made by a consumer through the Internet or other electronic media within the fifteen (15) minute time frame set forth in this subdivision, even if the request is made at a time other than during the consumer reporting agency's normal or extended business hours.

(d) A consumer reporting agency is not required to remove a security freeze under this section if the consumer reporting agency determines that the request to remove the security freeze:

(1) is materially false; or

(2) does not clearly identify the person making the request as the consumer.

Sec. 10. The placement of a security freeze on a consumer's consumer report does not prohibit a consumer reporting agency from providing the consumer's consumer report to the following persons without the authorization of the consumer:

(1) A person, including a subsidiary, an affiliate, an agent, an assignee, or a prospective assignee of the person, to whom the consumer owes a financial obligation in connection with any of the following:

(A) An account, including a demand deposit account, that the consumer has with the person, for the purpose of:

(i) reviewing the account, including activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements; or

(ii) collecting the obligation owed in connection with the account.

(B) A contract, for the purpose of collecting the obligation owed in connection with the contract.

(C) A negotiable instrument that the consumer has issued to the person, for the purpose of collecting the obligation owed in connection with the negotiable instrument.

(2) A person, including a subsidiary, an affiliate, an agent, or an assignee of the person, to whom the consumer has released the consumer's consumer report under section 7(a)(1) of this chapter, for the purpose of facilitating the extension of credit or for any permissible purpose under subdivision (1).

(3) A law enforcement agency.

(4) Any person for the purpose of prescreening, as provided in the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

(5) Any person administering a credit monitoring subscription service to which the consumer has subscribed.

(6) The consumer, upon the consumer's request, or any other person for the purpose of providing the consumer with a copy of the consumer's consumer report, upon the consumer's request.

(7) Any of the following that provides services to a consumer:

(A) An insurer licensed under IC 27.

(B) An insurance producer licensed under IC 27.

(C) An agent, a vendor, or an employee of:

(i) an insurer licensed under IC 27; or

(ii) an insurance producer licensed under IC 27;

while acting on behalf of the insurer or the insurance producer.

Sec. 11. (a) As used in this section, "energy utility" has the meaning set forth in IC 8-1-2.5-2.

(b) As used in this section, "specialized credit reporting tool" means a scoring model that:

(1) is available only to an energy utility; and

(2) is used by the energy utility to validate a consumer's identity and creditworthiness.

(c) The following persons are not required to place a security freeze on a consumer's consumer report:

(1) A consumer reporting agency that acts only as a reseller (as defined in 15 U.S.C. 1681a(u)) of information. However, a consumer reporting agency must honor any security freeze placed on a consumer's consumer report by another consumer reporting agency.

(2) A:

(A) check services; or

(B) fraud prevention services;

company that reports on incidents of fraud or issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payment.

(3) A deposit account information service company that issues reports concerning account closures due to:

(A) fraud;

(B) substantial overdrafts;

(C) ATM abuse; or

(D) similar negative information concerning a consumer;

to inquiring financial institutions for use only in reviewing a consumer's request for a deposit account at the inquiring financial institution.

(4) A consumer reporting agency that furnishes specialized credit reporting tools to an energy utility.

Sec. 12. (a) Except as provided in subsection (b), if a security freeze is in place with respect to a consumer's consumer report, a consumer reporting agency may not change any of the following official information on the consumer's consumer report without sending written confirmation of the change to the consumer not later than thirty (30) days after the change is posted to the consumer's consumer report:

(1) Name.

(2) Date of birth.

(3) Social Security number.

(4) Address.

In the case of an address change, the written confirmation required under this section shall be sent to both the new address and the old address.

(b) Written confirmation is not required under this section for technical modifications of a consumer's official information, including changes involving:

(1) the use of name or street:

(A) abbreviations; or

(B) complete spellings; or

(2) transpositions of numbers or letters in a consumer's name or address.

Sec. 13. A consumer reporting agency shall provide to a consumer notice with each written disclosure by the consumer reporting agency as required under Section 609 of the federal Fair Credit Reporting Act (15 U.S.C. 1681g) that the consumer may place a security freeze on the consumer's consumer report. The notice under this section must be in the following form:

"UNDER IC 24-5-24, YOU MAY OBTAIN A SECURITY FREEZE ON YOUR CONSUMER REPORT TO PROTECT YOUR PRIVACY AND ENSURE THAT CREDIT IS NOT GRANTED IN YOUR NAME WITHOUT YOUR KNOWLEDGE. THE SECURITY FREEZE WILL PROHIBIT A CONSUMER REPORTING AGENCY FROM RELEASING ANY INFORMATION IN YOUR CONSUMER REPORT WITHOUT YOUR EXPRESS AUTHORIZATION OR APPROVAL. THE SECURITY FREEZE IS DESIGNED TO PREVENT CREDIT LOANS AND SERVICES FROM BEING APPROVED IN YOUR NAME WITHOUT YOUR CONSENT. WHEN YOU PLACE A SECURITY FREEZE ON YOUR CONSUMER REPORT, WITHIN TEN (10) BUSINESS DAYS YOU WILL BE PROVIDED A PERSONAL IDENTIFICATION NUMBER TO USE IF YOU CHOOSE TO REMOVE THE SECURITY FREEZE OR TO TEMPORARILY AUTHORIZE THE RELEASE OF YOUR CONSUMER REPORT FOR A PERIOD OF TIME OR TO A SPECIFIC PERSON AFTER THE SECURITY FREEZE IS IN PLACE. A SECURITY FREEZE DOES NOT APPLY TO PERSONS OR ENTITIES LISTED IN IC 24-5-24-11. IF YOU ARE ACTIVELY SEEKING CREDIT, YOU SHOULD UNDERSTAND THAT THE PROCEDURES INVOLVED IN LIFTING A SECURITY FREEZE MAY SLOW YOUR OWN APPLICATIONS FOR CREDIT. YOU HAVE A RIGHT TO BRING A CIVIL ACTION AGAINST SOMEONE WHO VIOLATES YOUR RIGHTS UNDER IC 24-5-24.".

Sec. 14. A consumer reporting agency may not impose a charge for:

(1) placing a security freeze on a consumer's consumer report under section 5 of this chapter;

(2) issuing the same or a new personal identification number or password to a consumer under section 6 of this chapter;

(3) releasing a consumer's consumer report to a third party upon request of the consumer under section 7(a)(1) of this chapter;

(4) temporarily lifting a security freeze under section 7(a)(2) of this chapter; or

(5) removing a security freeze under section 9 of this chapter.

Sec. 15. (a) A consumer who suffers injury by an act of a consumer reporting agency that violates this chapter may bring a civil action against the consumer reporting agency in a circuit or superior court in the county in which the consumer resides.

(b) A civil action brought under this section must be commenced in accordance with IC 34-11-2-13.

(c) A person who fails to comply with any requirement imposed under this chapter with respect to a consumer is liable to that consumer in an amount equal to the sum of the following:

(1) The greater of:

(A) the amount of actual damages sustained by the consumer as a result of the failure to comply; or

(B) five hundred dollars ($500).

However, the amount awarded to a consumer under this subdivision may not exceed six thousand dollars ($6,000), regardless of the consumer's actual damages.

(2) Such punitive damages as the court may allow.

(3) In the case of a successful action by a consumer under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

Sec. 16. (a) The attorney general may bring an action to recover from a person on behalf of the state a civil penalty described in subsection (b).

(b) A person who knowingly or intentionally violates this chapter is subject to a civil penalty of:

(1) not more than two thousand five hundred dollars ($2,500) for a violation or series of violations concerning one (1) consumer; or

(2) not more than a total of one hundred thousand dollars ($100,000) for related violations concerning more than one (1) consumer.

Sec. 17. The provisions of this chapter are severable as provided in IC 1-1-1-8(b).

(Reference is to SB 403 as reprinted February 26, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

BARDON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred Engrossed Senate Bill 472, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, after "county," insert "**a**".

Page 1, line 3, after "city, or" insert "**a**".

Page 1, line 3, after "town," insert "**a township,**".

Page 4, line 22, delete "under IC 22-14-5-1." and insert "**by IC 22-14-6-2.**".

Page 4, line 39, delete "monies" and insert "**money**".

Page 4, line 42, delete "under" and insert "**by**".

Page 5, line 2, delete "monies" and insert "**money**".

Page 5, line 3, delete "under" and insert "**by**".

Page 5, line 5, strike "monies" and insert "**money**".

Page 5, delete lines 31 through 42, begin a new paragraph and insert:

"SECTION 14. IC 22-14-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 6. Fire Training Infrastructure Fund

Sec. 1. As used in this chapter, "fund" refers to the fire training infrastructure fund established by section 2 of this chapter.

Sec. 2. The fire training infrastructure fund is established to do the following:

(1) Provide grants to construct fire training facilities and purchase fire training equipment.

(2) Pay the costs of administering this chapter.

Sec. 3. The division shall administer the fund.

Sec. 4. The fund consists of the following:

(1) Amounts appropriated by the general assembly.

(2) Donations, grants, and money received from any other source.

(3) Amounts that the department transfers to the fund from the fire and building services fund.

(4) Amounts that the department transfers to the fund from the regional public safety training fund established by IC 10-15-3-12.

Sec. 5. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

Sec. 6. Money in the fund at the end of the fiscal year does not revert to the state general fund.

Sec. 7. The fund is subject to an annual audit by the state board of accounts. The fund shall pay all costs of the audit.".

Page 6, delete lines 1 through 14.

Page 9, delete lines 33 through 42, begin a new paragraph and insert:

"SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 22-12-1-23.3; IC 22-14-5.

SECTION 19. [EFFECTIVE JULY 1, 2007] **(a) Notwithstanding the repeal of IC 22-14-5 by this act, the firefighting and emergency equipment revolving loan fund established by IC 22-14-5-1 (before its repeal by this act) remains in existence after June 30, 2007, if any money remains in the fund on June 30, 2007. Money that remains in the firefighting and emergency equipment revolving loan fund on June 30, 2007, does not revert to the state general fund. Deposits or transfers may not be made to the firefighting and emergency equipment revolving loan fund, and new loans may not be made from the firefighting and emergency equipment revolving loan fund after June 30, 2007.**

(b) Money remaining in the firefighting and emergency equipment revolving loan fund on June 30, 2007, must be transferred before August 1, 2007, to the fire training infrastructure fund established by IC 22-14-6-1, as added by this act.

(c) If money in the firefighting and emergency equipment revolving loan fund is transferred under subsection (b), the firefighting and emergency equipment revolving loan fund is abolished immediately after the transfer under subsection (b) is completed.

(d) Notwithstanding the repeal of IC 22-14-5 by this act, if a loan provided under IC 22-14-5-1 (before its repeal by this act) remains outstanding on June 30, 2007, the qualified entity to whom the loan was provided shall repay the loan, subject to the original terms and conditions of the loan, to the department of homeland security established by IC 10-19-2-1 for deposit in the fire training infrastructure fund established by IC 22-14-6-1, as added by this act.

(e) This SECTION expires on the later of:

(1) August 1, 2007; or

(2) the date on which the last outstanding loan provided under IC 22-14-5-1 (before its repeal by this act) is repaid to the department of homeland security under subsection (d).".

Delete page 10.

Renumber all SECTIONS consecutively.

(Reference is to SB 472 as reprinted February 20, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

TINCHER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred Engrossed Senate Bill 480, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 9, delete lines 32 through 42, begin a new paragraph and insert:

"SECTION 6. IC 10-17-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The position of director of veterans' affairs is established. The governor shall appoint the director for a four (4) year term. However, the term of office of the director terminates when the term of office of the governor terminates or when a successor to the director is appointed and qualified. The director must be:

(1) an honorably discharged veteran who has at least six (6) months **active** service in the armed forces of the United States; and

(2) a citizen of Indiana and a resident of Indiana for at least five (5) years immediately preceding the director's appointment.

(b) The director is entitled to reimbursement for necessary traveling and other expenses.

(c) The governor may remove the director if the governor considers the director guilty of misconduct, incapability, or neglect of duty.

(d) The governor shall appoint an assistant director of veterans' affairs. The assistant director is entitled to receive reimbursement for necessary traveling and other expenses. The assistant director has the same qualifications as the director of veterans' affairs and shall assist the director in carrying out this chapter.

SECTION 7. IC 10-17-1-6, AS AMENDED BY P.L.58-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The director of veterans' affairs:

(1) is the executive and administrative head of the **Indiana** department of veterans' affairs; and

(2) shall direct and supervise the administrative and technical activities of the department;

subject to the general supervision of the commission.

(b) The duties of the director include the following:

(1) To attend all meetings of the commission and to act as secretary and keep minutes of the commission's proceedings.

(2) To appoint, by and with the consent of the commission, under this chapter and notwithstanding IC 4-15-2, the employees of the department necessary to carry out this chapter and to fix the compensation of the employees. Employees of the department must ~~be:~~

~~(A) honorably discharged veterans who have had at least six (6) months service in the armed forces of the United States and who are citizens of the United States and Indiana; or~~

~~(B) spouses, surviving spouses, parents, or children of~~

~~an individual described in clause (A).~~

~~An employee must~~ qualify for the job concerned.

(3) To carry out the program for veterans' affairs as directed by the governor and the commission.

(4) To carry on field direction, inspection, and coordination of county and city service officers as provided in this chapter.

(5) To prepare and conduct service officer training schools with the voluntary aid and assistance of the service staffs of the major veterans' organizations.

(6) To maintain an information bulletin service to county and city service officers for the necessary dissemination of material pertaining to all phases of veterans' rehabilitation and service work.

(7) To perform the duties described in IC 10-17-11 for the Indiana state veterans' cemetery.

(8) To perform the duties described in IC 10-17-12 for the military family relief fund.

SECTION 8. IC 10-17-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. ~~The director of veterans' affairs may act as agent of a veteran under~~ **(a)** A power of attorney authorizing ~~the director to act~~ **action** on behalf of ~~the~~ **a** veteran in obtaining a benefit or an advantage **for a veteran** provided under Indiana law **must run to an authorized agency or individual recognized by the United States Department of Veterans Affairs.**

(b) A rule contrary to this section is void.

SECTION 9. IC 10-17-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A county executive:

(1) shall designate and may employ a county service officer; and

(2) may employ service officer assistants;

to serve the veterans of the county.

(b) The fiscal body of a city may provide for the employment by the mayor of a city service officer and service officer assistants to serve the veterans of the city.

(c) If the remuneration and expenses of a county or city service officer are paid from the funds of the county or city employing the service officer, the service officer shall:

(1) have the same qualifications and be subject to the same rules as ~~other employees~~ **the director, assistant director, and state service officers** of the **Indiana** department of veterans' affairs; and

(2) serve under the supervision of the director of veterans' affairs.

A service officer assistant must have the same qualifications as an employee described in section 11(b) of this chapter. A rule contrary to this subsection is void.

(d) County and city fiscal bodies may appropriate funds necessary for the purposes described in this section.

SECTION 10. IC 10-17-1-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11. (a) The following employees of the Indiana department of veterans' affairs must satisfy the requirements set forth in section 5(a) of this chapter:**

(1) State service officers.

(2) Director of the state approving agency.

(3) Program directors of the state approving agency.

(4) Director of the Indiana state veterans' cemetery established by IC 10-17-11-4.

(b) An employee of the Indiana department of veterans' affairs not described in subsection (a) must:

(1) satisfy; or

(2) be the spouse, surviving spouse, parent, or child of a person who satisfies;

the requirements set forth in section 5(a) of this chapter.".

Page 10, delete lines 1 through 13.

Page 10, line 38, delete "ADDED BY P.L.246-2005," and insert "AMENDED BY SEA 526-2007, SECTION 203,".

Page 10, line 39, delete "SECTION 142,".

Page 11, line 13, delete "higher" and insert "postsecondary".

Page 11, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 14. IC 21-14-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 9. Resident Tuition for Active Duty Military Personnel

Sec. 1. As used in this chapter, "active duty" means full-time service in the armed forces of the United States that exceeds thirty (30) days in a calendar year.

Sec. 2. As used in this chapter, "armed forces of the United States" means any of the following:

(1) The United States Air Force.

(2) The United States Army.

(3) The United States Coast Guard.

(4) The United States Marine Corps.

(5) The United States Navy.

Sec. 3. As used in this chapter, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.

Sec. 4. (a) Notwithstanding any other statute, a person who:

(1) is a nonresident of Indiana;

(2) serves on active duty;

(3) is stationed in Indiana; and

(4) attends a state educational institution;

is eligible to pay the resident tuition rate determined by the state educational institution for courses taken by the person while the person continues to satisfy the criteria set forth in subdivisions (2) and (3).

(b) A dependent of a person described in subsection (a) is eligible to pay the resident tuition rate determined by the state educational institution for courses taken by the dependent for the duration of the dependent's enrollment at the state educational institution.".

Page 12, after line 22, begin a new paragraph and insert:

"SECTION 18. [EFFECTIVE JULY 1, 2007] **IC 10-17-1-5 and IC 10-17-1-9, both as amended by this act, and IC 10-17-1-11, as added by this act, apply to employees who begin employment with:**

(1) the Indiana department of veterans' affairs; or

(2) a county or a city under IC 10-17-1-9, as amended by this act;

as applicable, after June 30, 2007.".

Renumber all SECTIONS consecutively.

(Reference is to SB 480 as printed February 16, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

TINCHER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Small Business and Economic Development, to which was referred Engrossed Senate Bill 536, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 1, delete "IC 5-28-28" and insert "IC 5-28-28.4".

Page 1, line 4, delete "28." and insert "**28.4.**".

Page 2, delete line 14.

Page 2, line 15, delete "(C)" and insert "**(B)**".

Page 2, line 17, delete "." and insert "**; or**

(C) if the corporation is unable to determine the appropriate growth factor under clause (A) or (B), is entering a new product or process area in one (1) or more of the following industries:

(i) Life sciences.
(ii) Advanced manufacturing.
(iii) Information technology.
(iv) Another high growth industry as determined by the corporation.".

Page 2, line 25, after "least" insert "**the greatest of:**
(A)".

Page 2, line 25, delete "Indiana per" and insert "**the average wage in Indiana;**".

Page 2, delete line 26, begin a new line double block indented and insert:

"**(B) one hundred fifty percent (150%) of the average wage in the county in which the company is located; or**
(C) one hundred fifty percent (150%) of the average wage in the county in which the majority of the company's employees work or will work, if the county is different from the county described in clause (B).".

Page 3, between lines 19 and 20, begin a new paragraph and insert:

"**(6) A majority of the applicant's employees, including employees who perform new jobs described in subdivision (1), participate or will participate in a health insurance program offered by the applicant.**".

Page 4, line 28, delete "." and insert "**, including a provision requiring the repayment of grant or loan proceeds by the applicant to the corporation, unless the corporation determines that a repayment provision is unnecessary.**".

(Reference is to SB 536 as printed February 16, 2007.)
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 1.

ORENTLICHER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred Engrossed Senate Bill 537, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 9, delete "dependants," and insert "**dependents,**".

Page 1, line 9, delete "defined" and insert "**described**".

Page 2, after line 24, begin a new paragraph and insert:

"SECTION 2. IC 22-3-3-10, AS AMENDED BY P.L.134-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) With respect to injuries in the schedule set forth in subsection (d) occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not to exceed fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury.

(b) With respect to injuries in the schedule set forth in subsection (d) occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

(c) With respect to injuries in the schedule set forth in subsection (d) occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

(d) With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Amputation: For the loss by separation of the thumb, sixty (60) weeks, of the index finger forty (40) weeks, of the second finger thirty-five (35) weeks, of the third or ring finger thirty (30) weeks, of the fourth or little finger twenty (20) weeks, of the hand by separation below the elbow joint two hundred (200) weeks, or the arm above the elbow two hundred fifty (250) weeks, of the big toe sixty (60) weeks, of the second toe thirty (30) weeks, of the third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks, of the fifth or little toe ten (10) weeks, for loss occurring on and after April 1, 1959, by separation of the foot below the knee joint, one hundred seventy-five (175) weeks and of the leg above the knee joint two hundred twenty-five (225) weeks. The loss of more than one (1) phalange of a thumb or toes shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (½) of the thumb or toe and compensation shall be paid for one-half (½) of the period for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) the period for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half (½) of the finger and compensation shall be paid for one-half (½) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

(e) With respect to injuries in the schedule set forth in subsection (h) occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not exceeding fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars ($125) average weekly wages for the period stated for the injury.

(f) With respect to injuries in the schedule set forth in subsection (h) occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

(g) With respect to injuries in the schedule set forth in

subsection (h) occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

(h) With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Loss of use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid for the same period as for the loss thereof by separation.

(2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(3) For injuries resulting in total permanent disability, five hundred (500) weeks.

(4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (d)(3), compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then in such event compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses, plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(5) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (d)(4), compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(i) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, and for the loss by separation of any of the body parts described in subdivision (3), (5), or (8), on or after July 1, 1999, the dollar values per degree applying on the date of the injury as described in subsection (j) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (½) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (½) of the finger and compensation shall be paid for one-half (½) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation, thirty-five (35) degrees of permanent impairment.

(6) For the reduction of vision to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(7) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(10) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb,

finger, leg, foot, toe, or phalange.

(11) For injuries resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(12) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (h)(4), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(13) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (h)(5), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(14) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(15) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(j) Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection (i) and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars ($700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to injuries occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to injuries occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(6) With respect to injuries occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars ($2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars ($2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, and before July 1, 2007, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars ($1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars ($2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars ($3,000) per degree.

(9) With respect to injuries occurring on and after July 1, 2007, and before July 1, 2008, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred ~~forty~~ **fifty** dollars ~~($1,340)~~ **($1,350)** per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred ~~forty-five~~ **fifty-seven** dollars ~~($1,545)~~ **($1,557)** per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred ~~seventy-five~~ **ninety-one** dollars ~~($2,475)~~ **($2,491)** per degree; for each degree of permanent impairment above fifty (50), three thousand one hundred fifty dollars ($3,150) per degree.

(10) With respect to injuries occurring on and after July 1, 2008, and before July 1, 2009, for each degree of permanent impairment from one (1) to ten (10), one thousand ~~three~~ **four** hundred ~~sixty-five~~ **one** dollars ~~($1,365)~~ **($1,401)** per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand ~~five~~ **six** hundred ~~seventy~~ **sixteen** dollars ~~($1,570)~~

($1,616) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand five hundred ~~twenty-five~~ **eighty-six** dollars ~~($2,525)~~ **($2,586)** per degree; for each degree of permanent impairment above fifty (50), three thousand two hundred **seventy** dollars ~~($3,200)~~ **($3,270)** per degree.

(11) With respect to injuries occurring on and after July 1, 2009, and before July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand ~~three~~ **four** hundred ~~eighty~~ **fifty-four** dollars ~~($1,380)~~ **($1,454)** per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand ~~five~~ **six** hundred ~~eighty-five~~ **seventy-eight** dollars ~~($1,585)~~ **($1,678)** per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand six hundred **eighty-five** dollars ~~($2,600)~~ **($2,685)** per degree; for each degree of permanent impairment above fifty (50), three thousand three hundred **ninety-five** dollars ~~($3,300)~~ **($3,395)** per degree.

(12) With respect to injuries occurring on and after July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand ~~four~~ **five** hundred **nine** dollars ~~($1,400)~~ **($1,509)** per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand ~~six~~ **seven** hundred **forty-two** dollars ~~($1,600)~~ **($1,742)** per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred **eighty-seven** dollars ~~($2,700)~~ **($2,787)** per degree; for each degree of permanent impairment above fifty (50), three thousand five hundred **twenty-four** dollars ~~($3,500)~~ **($3,524)** per degree.

(k) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (i) and (j) shall not exceed the following:

(1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).

(2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).

(3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).

(4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).

(5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).

(6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).

(7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars ($732).

(8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars ($762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars ($822).

(10) With respect to injuries occurring on or after July 1, 2002, and before July 1, 2006, eight hundred eighty-two dollars ($882).

(11) With respect to injuries occurring on or after July 1, 2006, and before July 1, 2007, nine hundred dollars ($900).

(12) With respect to injuries occurring on or after July 1, 2007, and before July 1, 2008, nine hundred ~~thirty~~ **thirty-four** dollars ~~($930).~~ **($934).**

~~(11)~~ **(13)** With respect to injuries occurring on or after July 1, 2008, and before July 1, 2009, nine hundred ~~fifty-four~~ **seventy** dollars ~~($954).~~ **($970).**

~~(12)~~ **(14)** With respect to injuries occurring on or after July 1, 2009, ~~nine hundred seventy-five~~ **and before July 1, 2010, one thousand seven** dollars ~~($975).~~ **($1,007).**

(15) With respect to injuries occurring on or after July 1, 2010, one thousand forty-five dollars ($1,045).

SECTION 3. IC 22-3-3-13, AS AMENDED BY P.L.134-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than November 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. Not later than January 31 of the following year, each entity identified in subdivisions (1) and (2) shall send to the board a statement of total paid losses and premiums (as defined in subsection (d)(4)) paid by employers during the previous calendar year. The board may conduct an assessment under this subsection not more than one (1) time annually. The total amount of the assessment may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. The board shall assess a penalty in the amount of ten percent (10%) of the amount owed if payment is not made under this section within thirty (30) days from the date set by the board. If the amount to the credit of the second injury fund on or before November 1 of any year exceeds one hundred thirty-five percent (135%) of the previous year's disbursements, the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before November 1 of any year the amount to the credit of the fund is less than one hundred thirty-five percent (135%) of the previous year's disbursements, the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.

(d) The board shall assess all employers for the liabilities, including administrative expenses, of the second injury fund. The assessment also must provide for the repayment of all loans made to the second injury fund for the purpose of paying valid claims.

The following applies to assessments under this subsection:

(1) The portion of the total amount that must be collected from self-insured employers equals:

(A) the total amount of the assessment as determined by the board; multiplied by

(B) the quotient of:

(i) the total paid losses on behalf of all self-insured employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(2) The portion of the total amount that must be collected from insured employers equals:

(A) the total amount of the assessment as determined by the board; multiplied by

(B) the quotient of:

(i) the total paid losses on behalf of all insured employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(3) The total amount of **insured employer** assessments ~~allocated to insured employers~~ under subdivision (2) must be ~~be~~ collected by the insured employers' worker's compensation insurers. The amount of ~~the assessment for~~ **employer assessments** each ~~insured employer~~ **insurer shall collect** equals:

(A) the total amount of assessments allocated to insured employers under subdivision ~~(3);~~ **(2);** multiplied by

(B) the quotient of:

(i) the worker's compensation premiums paid by ~~the insured employer~~ **employers to the carrier** during the preceding calendar year; divided by

(ii) the worker's compensation premiums paid by **employers to** all ~~insured employers~~ **carriers** during the preceding calendar year.

(4) For purposes of the computation made under subdivision (3), "premium" means the ~~entire written premium resulting from standard rating procedures and before the application of any of the following:~~

~~(A) Rate deviations.~~

~~(B) Premium discounts.~~

~~(C) Policyholder dividends.~~

~~(D) Premium adjustments under a retrospective rating plan.~~

~~(E) Premium credits provided under large deductible programs.~~

~~(F) Any other premium debits or credits.~~ **direct written premium.**

(5) The amount of the assessment for each self-insured employer equals:

(A) the total amount of assessments allocated to self-insured employers under subdivision (1); multiplied by

(B) the quotient of:

(i) the paid losses attributable to the self-insured employer during the preceding calendar year; divided by

(ii) paid losses attributable to all self-insured employers during the preceding calendar year.

An employer that has ceased to be a self-insurer continues to be liable for prorated assessments based on paid losses made by the employer in the preceding calendar year during the period that the employer was self-insured.

(e) The board may employ a qualified employee or enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than December 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(f) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of insurance producer commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(g) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(h) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (i).

(i) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(j) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(k) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs; the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 4. IC 22-3-3-22, AS AMENDED BY P.L.134-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars ($267); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars ($285); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars ($384); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars ($411); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

(1) not more than four hundred forty-one dollars ($441); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars ($492); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars ($540); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars ($591); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars ($642); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars ($672); and

(B) not less than seventy-five dollars ($75);

(2) with respect to injuries occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars ($702); and

(B) not less than seventy-five dollars ($75);

(3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars ($732); and

(B) not less than seventy-five dollars ($75);

(4) with respect to injuries occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars ($762); and

(B) not less than seventy-five dollars ($75);

(5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars ($822); and

(B) not less than seventy-five dollars ($75);

(6) with respect to injuries occurring on and after July 1, 2002, and before July 1, 2006:

(A) not more than eight hundred eighty-two dollars ($882); and

(B) not less than seventy-five dollars ($75);

(7) with respect to injuries occurring on and after July 1, 2006, and before July 1, 2007:

(A) not more than nine hundred dollars ($900); and

(B) not less than seventy-five dollars ($75);

(8) with respect to injuries occurring on and after July 1, 2007, and before July 1, 2008:

(A) not more than nine hundred ~~thirty~~ **thirty-four** dollars ~~($930),~~ **($934);** and

(B) not less than seventy-five dollars ($75);

(9) with respect to injuries occurring on and after July 1, 2008, and before July 1, 2009:

(A) not more than nine hundred ~~fifty-four~~ **seventy** dollars ~~($954),~~ **($970);** and

(B) not less than seventy-five dollars ($75); ~~and~~

(10) with respect to injuries occurring on and after July 1, 2009, **and before July 1, 2010:**

(A) not more than ~~nine hundred seventy-five~~ **one thousand seven** dollars ~~($975),~~ **($1,007);** and

(B) not less than seventy-five dollars ($75); **and**

(11) with respect to injuries occurring on and after July 1, 2010:

(A) not more than one thousand forty-five dollars ($1,045); and

(B) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(k) With respect to any injury occurring on and after July 1, 1985, and before July 1, 1986, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-nine thousand dollars ($89,000) in any case.

(l) With respect to any injury occurring on and after July 1, 1986, and before July 1, 1988, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed ninety-five thousand dollars ($95,000) in any case.

(m) With respect to any injury occurring on and after July 1, 1988, and before July 1, 1989, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

(n) With respect to any injury occurring on and after July 1, 1989, and before July 1, 1990, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

(o) With respect to any injury occurring on and after July 1, 1990, and before July 1, 1991, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

(p) With respect to any injury occurring on and after July 1, 1991, and before July 1, 1992, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

(q) With respect to any injury occurring on and after July 1, 1992, and before July 1, 1993, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred eighty thousand dollars ($180,000) in any case.

(r) With respect to any injury occurring on and after July 1, 1993, and before July 1, 1994, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

(s) With respect to any injury occurring on and after July 1, 1994, and before July 1, 1997, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(t) The maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provision of this law or any combination of provisions may not exceed the following amounts in any case:

(1) With respect to an injury occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).

(2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).

(3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).

(4) With respect to an injury occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars ($254,000).

(5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars ($274,000).

(6) With respect to an injury occurring on and after July 1, 2002, and before July 1, 2006, two hundred ninety-four thousand dollars ($294,000).

(7) With respect to an injury occurring on and after July 1, 2006, and before July 1, 2007, three hundred thousand dollars ($300,000).

(8) With respect to an injury occurring on and after July 1, 2007, and before July 1, 2008, three hundred ~~ten~~ **eleven** thousand **four hundred thirty** dollars ~~($310,000).~~ **($311,430).**

(9) With respect to an injury occurring on and after July 1, 2008, and before July 1, 2009, three hundred ~~eighteen~~ **twenty-three** thousand **two hundred ninety-five** dollars ~~($318,000).~~ **($323,295).**

(10) With respect to an injury occurring on and after July 1, 2009, **and before July 1, 2010,** three hundred ~~twenty-five~~ **thirty-five** thousand **six hundred thirteen** dollars ~~($325,000).~~ **($335,613).**

(11) With respect to an injury occurring on and after July 1, 2010, three hundred forty-eight thousand four hundred dollars ($348,400).

SECTION 5. IC 22-3-7-16, AS AMENDED BY P.L.134-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

(1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;

(2) the status of the investigation on the date the petition is filed;

(3) the facts or circumstances that are necessary to make a determination; and

(4) a timetable for the completion of the remaining

investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars ($50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

(1) the employee has returned to work;

(2) the employee has died;

(3) the employee has refused to undergo a medical examination under section 20 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; or

(5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means, and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under this section and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(e) For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(f) For disablements occurring on and after July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(g) For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the disabilities.

(h) For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the disabilities.

(i) For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the disabilities.

(j) For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (½) of the thumb or toe and compensation shall be paid for one-half (½) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (½) the finger and compensation shall be paid for one-half (½) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an

arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(7) For the permanent and complete loss of hearing, two hundred (200) weeks.

(8) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(9) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this paragraph where compensation shall be payable under subdivisions (1) through (8). Where compensation for temporary total disability has been paid, this amount of compensation shall be deducted from any compensation due for permanent disfigurement.

(k) With respect to disablements in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the disablement, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the disablement occurred:

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (l) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (½) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (½) of the finger and compensation shall be paid for one-half (½) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (5), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without

glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (6), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(l) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection (k) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars ($700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars ($2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars ($2,500) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, and before July 1, 2007, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars ($1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars ($2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars ($3,000) per degree.

(9) With respect to disablements occurring on and after July 1, 2007, and before July 1, 2008, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred ~~forty~~ **fifty** dollars ~~($1,340)~~ **($1,350)** per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred ~~forty-five~~ **fifty-seven** dollars ~~($1,545)~~ **($1,557)** per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred ~~seventy-five~~ **ninety-one** dollars ~~($2,475)~~ **($2,491)** per degree; for each degree of permanent impairment above fifty (50), three thousand one hundred fifty dollars ($3,150) per degree.

(10) With respect to disablements occurring on and after July 1, 2008, and before July 1, 2009, for each degree of permanent impairment from one (1) to ten (10), one thousand ~~three~~ **four** hundred ~~sixty-five~~ **one** dollars ~~($1,365)~~ **($1,401)** per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand ~~five~~ **six** hundred ~~seventy~~ **sixteen** dollars ~~($1,570)~~ **($1,616)** per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand five hundred ~~twenty-five~~ **eighty-six** dollars ~~($2,525)~~ **($2,586)** per degree; for each degree of permanent impairment above fifty (50), three thousand two hundred **seventy** dollars ~~($3,200)~~ **($3,270)** per degree.

(11) With respect to disablements occurring on and after July 1, 2009, and before July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand ~~three~~ **four** hundred ~~eighty~~ **fifty-four** dollars ~~($1,380)~~ **($1,454)** per degree; for each degree of permanent

impairment from eleven (11) to thirty-five (35), one thousand ~~five~~ **six** hundred ~~eighty-five~~ **seventy-eight** dollars ~~($1,585)~~ **($1,678)** per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand six hundred **eighty-five** dollars ~~($2,600)~~ **($2,685)** per degree; for each degree of permanent impairment above fifty (50), three thousand three hundred **ninety-five** dollars ~~($3,300)~~ **($3,395)** per degree.

(12) With respect to disablements occurring on and after July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand ~~four~~ **five** hundred **nine** dollars ~~($1,400)~~ **($1,509)** per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand ~~six~~ **seven** hundred **forty-two** dollars ~~($1,600)~~ **($1,742)** per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred **eighty-seven** dollars ~~($2,700)~~ **($2,787)** per degree; for each degree of permanent impairment above fifty (50), three thousand five hundred **twenty-four** dollars ~~($3,500)~~ **($3,524)** per degree.

(m) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (k) and (l) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars ($732).

(8) With respect to disablements occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars ($762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars ($822).

(10) With respect to injuries occurring on or after July 1, 2002, and before July 1, 2006, eight hundred eighty-two dollars ($882).

(11) With respect to injuries occurring on or after July 1, 2006, and before July 1, 2007, nine hundred dollars ($900).

(12) With respect to injuries occurring on or after July 1, 2007, and before July 1, 2008, nine hundred ~~thirty~~ **thirty-four** dollars ~~($930).~~ **($934).**

(13) With respect to injuries occurring on or after July 1, 2008, and before July 1, 2009, nine hundred ~~fifty-four~~ **seventy** dollars ~~($954).~~ **($970).**

(14) With respect to injuries occurring on or after July 1, 2009, ~~nine hundred seventy-five~~ **and before July 1, 2010, one thousand seven** dollars ~~($975).~~ **($1,007).**

(15) With respect to injuries occurring on or after July 1, 2010, one thousand forty-five dollars ($1,045).

(n) If any employee, only partially disabled, refuses employment suitable to the employee's capacity procured for the employee, the employee shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(o) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which the employee suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(p) If an employee suffers a disablement from an occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, the employee shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (k)(1), (k)(4), (k)(5), (k)(8), or (k)(9), but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(q) If an employee receives a permanent disability from **an** occupational disease such as specified in subsection (k)(1), (k)(4), (k)(5), (k)(8), or (k)(9) after having sustained another such permanent disability in the same employment, the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(r) When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(s) Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when made, may, subject to the approval of

the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(t) When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

(u) When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars ($100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

(v) Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars ($100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(w) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(x) All compensation payments named and provided for in this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee.

SECTION 6. IC 22-3-7-19, AS AMENDED BY P.L.134-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars ($267); and

(2) not less than seventy-five dollars ($75).

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars ($285); and

(2) not less than seventy-five dollars ($75).

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars ($384); and

(2) not less than seventy-five dollars ($75).

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars ($411); and

(2) not less than seventy-five dollars ($75).

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

(1) not more than four hundred forty-one dollars ($441); and

(2) not less than seventy-five dollars ($75).

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars ($492); and

(2) not less than seventy-five dollars ($75).

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars ($540); and

(2) not less than seventy-five dollars ($75).

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars ($591); and

(2) not less than seventy-five dollars ($75).

(i) In computing compensation for temporary total disability, temporary partial disability and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars ($642); and

(2) not less than seventy-five dollars ($75).

(j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars ($672); and

(B) not less than seventy-five dollars ($75);

(2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars ($702); and

(B) not less than seventy-five dollars ($75);

(3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars ($732); and

(B) not less than seventy-five dollars ($75);

(4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars ($762); and

(B) not less than seventy-five dollars ($75);

(5) with respect to disablements occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars ($822); and

(B) not less than seventy-five dollars ($75);

(6) with respect to disablements occurring on and after July 1, 2002, and before July 1, 2006:

(A) not more than eight hundred eighty-two dollars ($882); and

(B) not less than seventy-five dollars ($75);

(7) with respect to disablements occurring on and after July

1, 2006, and before July 1, 2007:

(A) not more than nine hundred dollars ($900); and

(B) not less than seventy-five dollars ($75);

(8) with respect to disablements occurring on and after July 1, 2007, and before July 1, 2008:

(A) not more than nine hundred ~~thirty~~ **thirty-four** dollars ~~($930);~~ **($934);** and

(B) not less than seventy-five dollars ($75);

(9) with respect to disablements occurring on and after July 1, 2008, and before July 1, 2009:

(A) not more than nine hundred ~~fifty-four~~ **seventy** dollars ~~($954);~~ **($970);** and

(B) not less than seventy-five dollars ($75);

(10) with respect to disablements occurring on and after July 1, 2009, **and before July 1, 2010:**

(A) not more than ~~nine hundred seventy-five~~ **one thousand seven** dollars ~~($975);~~ **($1,007);** and

(B) not less than seventy-five dollars ($75); **and**

(11) with respect to disablements occurring on and after July 1, 2010:

(A) not more than one thousand forty-five dollars ($1,045); and

(B) not less than seventy-five dollars ($75).

(k) The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars ($89,000) in any case.

(l) The maximum compensation with respect to disability or death occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars ($95,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

(n) The maximum compensation with respect to disability or death occurring on and after July 1, 1989, and before July 1, 1990, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

(o) The maximum compensation with respect to disability or death occurring on and after July 1, 1990, and before July 1, 1991, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

(p) The maximum compensation with respect to disability or death occurring on and after July 1, 1991, and before July 1, 1992, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

(q) The maximum compensation with respect to disability or death occurring on and after July 1, 1992, and before July 1, 1993, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred eighty thousand dollars ($180,000) in any case.

(r) The maximum compensation with respect to disability or death occurring on and after July 1, 1993, and before July 1, 1994, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

(s) The maximum compensation with respect to disability or death occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter may not exceed the following amounts in any case:

(1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).

(2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).

(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).

(4) With respect to disability or death occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars ($254,000).

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars ($274,000).

(6) With respect to disability or death occurring on and after July 1, 2002, and before July 1, 2006, two hundred ninety-four thousand dollars ($294,000).

(7) With respect to disability or death occurring on and after July 1, 2006, and before July 1, 2007, three hundred thousand dollars ($300,000).

(8) With respect to disability or death occurring on and after July 1, 2007, and before July 1, 2008, three hundred ~~ten~~ **eleven** thousand **four hundred thirty** dollars ~~($310,000).~~ **($311,430).**

(9) With respect to disability or death occurring on and after July 1, 2008, and before July 1, 2009, three hundred ~~eighteen~~ **twenty-three** thousand **two hundred ninety-five** dollars ~~($318,000).~~ **($323,295).**

(10) With respect to disability or death occurring on or after July 1, 2009, **and before July 1, 2010,** three hundred ~~twenty-five~~ **thirty-five** thousand **six hundred thirteen** dollars ~~($325,000).~~ **($335,613).**

(11) With respect to disability or death occurring on or after July 1, 2010, three hundred forty-eight thousand four hundred dollars ($348,400).

(u) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work

by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

(v) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars ($75,000).

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 22-3-1-3(a), as amended by this act, a rule adopted by the worker's compensation board concerning the assessment and collection of reasonable fees for services must provide that a fee established for adjudicating disputes between an insurer and a health care provider may not take effect before July 1, 2008.**

(b) This SECTION expires June 30, 2009.

SECTION 8. **An emergency is declared for this act.**".

(Reference is to SB 537 as reprinted February 26, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 6, nays 5.

CHENEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 566, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 10 through 17.

Page 2, delete lines 1 through 12.

Renumber all SECTIONS consecutively.

(Reference is to ESB 566 as printed March 27, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 1.

CRAWFORD, Chair

Report adopted.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:55 p.m. with the Speaker in the Chair.

Representatives Austin, Kuzman, and Oxley, who had been excused, were present.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 330

Representative Summers called down Engrossed Senate Bill 330 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 330–2)

Mr. Speaker: I move that Engrossed Senate Bill 330 be amended to read as follows:

Page 5, line 6, after "state" insert "**or local**".

Page 5, line 17, after "state" insert "**or local**".

(Reference is to ESB 330 as printed March 30, 2007.)

SUMMERS

Motion prevailed.

HOUSE MOTION
(Amendment 330–1)

Mr. Speaker: I move that Engrossed Senate Bill 330 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-24-5-5, AS ADDED BY P.L.1-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Except as provided in subsections (b), (c), and (d), a charter school must enroll any eligible student who submits a timely application for enrollment.

(b) This subsection applies if the number of applications for a program, class, grade level, or building exceeds the capacity of the program, class, grade level, or building. If a charter school receives a greater number of applications than there are spaces for students, each timely applicant must be given an equal chance of admission.

(c) A charter school may limit new admissions to the charter school to:

(1) ensure that a student who attends the charter school during a school year may continue to attend the charter school in subsequent years; ~~and~~

(2) allow the siblings of a student who attends a charter school to attend the charter school; **and**

(3) allow a child who has been adjudicated to be a child in need of services or a delinquent child and who attends an affiliated licensed child caring institution to attend the charter school.

(d) This subsection applies to an existing school that converts to a charter school under IC 20-24-11. During the school year in which the existing school converts to a charter school, the charter school may limit admission to:

(1) those students who were enrolled in the charter school on the date of the conversion; and

(2) siblings of students described in subdivision (1).".

Renumber all SECTIONS consecutively.

(Reference is to SB 330 as printed March 30, 2007.)

V. SMITH

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 431

Representative Pflum called down Engrossed Senate Bill 431 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 431–1)

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-4-11-15.4, AS ADDED BY P.L.235-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.4. (a) The authority may issue bonds or notes and invest or loan the proceeds of those bonds or notes to a participant (as defined in IC 13-11-2-151.1) for the purposes of:

(1) the wastewater revolving loan program established by IC 13-18-13-1; and

(2) the drinking water revolving loan program established by IC 13-18-21-1.

(b) If the authority loans money to or purchases debt securities of a political subdivision (as defined in ~~IC 13-11-2-164(a) and~~ IC 13-11-2-164(b) **and IC 13-11-2-164(c)),** the authority may,

by the resolution approving the bonds or notes, provide that subsection (c) is applicable to the political subdivision.

(c) Notwithstanding any other law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to the political subdivision (other than for goods or services provided by the political subdivision), at any time after written notice to the department or agency head from the authority that the political subdivision is in default on the payment of principal or interest on the obligations then held or owned by or arising from an agreement with the authority, the department or agency shall withhold the payment of that money from that political subdivision and pay over the money to the authority for the purpose of paying principal of and interest on bonds or notes of the authority. However, the withholding of payment from the political subdivision and payment to the authority under this section must not adversely affect the validity of the obligation in default.".

Page 3, line 4, delete "(a)" and insert "**(a) "Political subdivision", for purposes of IC 13-18-10, means:**

(1) a county; or

(2) a municipality.

~~(a)~~ **(b)**".

Page 3, line 13, strike "(b)" and insert "**(c)**".

Page 3, line 13, delete "IC 13-18-10 and".

Page 3, line 26, strike "(c)" and insert "**(d)**".

Page 5, delete lines 11 through 13 and insert "**environment with respect to confined feeding operations and CAFOs.**

(b) The following are the only entities that have regulatory authority for the protection of human health with respect to confined feeding operations and CAFOs:

(1) The department.

(2) The state department of health.

(3) A:

(A) local health department; or

(B) health and hospital corporation;

that has jurisdiction where the operation is located.".

Page 5, line 14, delete "(b) A" and insert "**(c) Subject to subsection (d), a**".

Page 5, between lines 17 and 18, begin a new paragraph and insert:

"**(d) The granting by the department of an approval under section 1 of this chapter does not preempt or affect in any way the authority of a political subdivision under subsection (c).**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

CHEATHAM

Motion prevailed.

HOUSE MOTION
(Amendment 431–9)

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-4-11-15.4, AS ADDED BY P.L.235-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.4. (a) The authority may issue bonds or notes and invest or loan the proceeds of those bonds or notes to a participant (as defined in IC 13-11-2-151.1) for the purposes of:

(1) the wastewater revolving loan program established by IC 13-18-13-1; and

(2) the drinking water revolving loan program established by IC 13-18-21-1.

(b) If the authority loans money to or purchases debt securities of a political subdivision (as defined in ~~IC 13-11-2-164(a) and~~ IC 13-11-2-164(b) **and IC 13-11-2-164(c)),** the authority may, by the resolution approving the bonds or notes, provide that subsection (c) is applicable to the political subdivision.

(c) Notwithstanding any other law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to the political subdivision (other than for goods or services provided by the political subdivision), at any time after written notice to the department or agency head from the authority that the political subdivision is in default on the payment of principal or interest on the obligations then held or owned by or arising from an agreement with the authority, the department or agency shall withhold the payment of that money from that political subdivision and pay over the money to the authority for the purpose of paying principal of and interest on bonds or notes of the authority. However, the withholding of payment from the political subdivision and payment to the authority under this section must not adversely affect the validity of the obligation in default.".

Page 3, line 4, delete "(a)" and insert "**(a) "Political subdivision", for purposes of IC 13-18-10, means:**

(1) a county; or

(2) a municipality.

~~(a)~~ **(b)**".

Page 3, line 13, strike "(b)" and insert "**(c)**".

Page 3, line 13, delete "IC 13-18-10 and".

Page 3, line 26, strike "(c)" and insert "**(d)**".

Page 5, delete lines 11 through 13 and insert "**environment with respect to confined feeding operations and CAFOs.**

(b) The following are the only entities that have regulatory authority for the protection of human health with respect to confined feeding operations and CAFOs:

(1) The department.

(2) The state department of health.

(3) A political subdivision.

(4) A:

(A) local health department; or

(B) health and hospital corporation;

that has jurisdiction where the operation is located.".

Page 5, line 14, delete "(b) A" and insert "**(c) Except as provided in subsection (b), a**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

SAUNDERS

Motion failed.

HOUSE MOTION
(Amendment 431–2)

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-12.1-1, AS AMENDED BY P.L.154-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. For purposes of this chapter:

(1) "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

(A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues; and

(B) a residentially distressed area, except as otherwise provided in this chapter.

(2) "City" means any city in this state, and "town" means any town incorporated under IC 36-5-1.

(3) "New manufacturing equipment" means tangible personal property that a deduction applicant:

(A) installs after February 28, 1983, and on or before the approval deadline determined under section 9 of this chapter, in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible personal property is allowed;

(B) uses in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including but not limited to use to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products;

(C) acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant for use as described in clause (B); and

(D) never used for any purpose in Indiana before the installation described in clause (A).

However, notwithstanding any other law, the term includes tangible personal property that is used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products and was installed after March 1, 1993, and before March 2, 1996, even if the property was installed before the area where the property is located was designated as an economic revitalization area or the statement of benefits for the property was approved by the designating body.

(4) "Property" means a building or structure, but does not include land.

(5) "Redevelopment" means the construction of new structures, in economic revitalization areas, either:

(A) on unimproved real estate; or

(B) on real estate upon which a prior existing structure is demolished to allow for a new construction.

(6) "Rehabilitation" means the remodeling, repair, or betterment of property in any manner or any enlargement or extension of property.

(7) "Designating body" means the following:

(A) For a county that does not contain a consolidated city, the fiscal body of the county, city, or town.

(B) For a county containing a consolidated city, the metropolitan development commission.

(8) "Deduction application" means:

(A) the application filed in accordance with section 5 of this chapter by a property owner who desires to obtain the deduction provided by section 3 of this chapter;

(B) the application filed in accordance with section 5.4 of this chapter by a person who desires to obtain the deduction provided by section 4.5 of this chapter; or

(C) the application filed in accordance with section 5.3 of this chapter by a property owner that desires to obtain the deduction provided by section 4.8 of this chapter.

(9) "Designation application" means an application that is filed with a designating body to assist that body in making a determination about whether a particular area should be designated as an economic revitalization area.

(10) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a). The term includes waste determined to be a hazardous waste under IC 13-22-2-3(b).

(11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a). However, the term does not include dead animals or any animal solid or semisolid wastes.

(12) "New research and development equipment" means tangible personal property that:

(A) a deduction applicant installs after June 30, 2000, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

(i) laboratory equipment;

(ii) research and development equipment;

(iii) computers and computer software;

(iv) telecommunications equipment; or

(v) testing equipment;

(C) the deduction applicant uses in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products;

(D) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant for purposes described in this subdivision; and

(E) the deduction applicant never used for any purpose in Indiana before the installation described in clause (A).

The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy, history, or similar projects.

(13) "New logistical distribution equipment" means tangible personal property that:

(A) a deduction applicant installs after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

(i) racking equipment;

(ii) scanning or coding equipment;

(iii) separators;

(iv) conveyors;

(v) fork lifts or lifting equipment (including "walk behinds");

(vi) transitional moving equipment;

(vii) packaging equipment;

(viii) sorting and picking equipment; or

(ix) software for technology used in logistical distribution;

(C) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant and uses for the storage or distribution of goods, services, or information; and

(D) the deduction applicant never used for any purpose in Indiana before the installation described in clause (A).

(14) "New information technology equipment" means tangible personal property that:

(A) a deduction applicant installs after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of equipment, including software, used in the fields of:

(i) information processing;

(ii) office automation;

(iii) telecommunication facilities and networks;

(iv) informatics;

(v) network administration;

(vi) software development; and

(vii) fiber optics;

(C) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant; and

(D) the deduction applicant never used for any purpose

in Indiana before the installation described in clause (A).

(15) "Deduction applicant" means an owner of tangible personal property who makes a deduction application.

(16) "Affiliate" means an entity that effectively controls or is controlled by a deduction applicant or is associated with a deduction applicant under common ownership or control, whether by shareholdings or other means.

(17) "Eligible vacant building" means a building that:

(A) is zoned for commercial or industrial purposes; and

(B) is unoccupied for at least one (1) year before the owner of the building or a tenant of the owner occupies the building, as evidenced by a valid certificate of occupancy, paid utility receipts, executed lease agreements, or any other evidence of occupation that the department of local government finance requires.

(18) "Confined feeding equipment" means equipment used for either of the following at a confined feeding operation (as defined in IC 13-11-2-40), including a concentrated animal feeding operation (as defined in IC 13-11-2-38.3):

(A) The anaerobic digestion of manure.

(B) The control of odors.

SECTION 2. IC 6-1.1-12.1-2, AS AMENDED BY P.L.154-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area. However, the deduction provided by this chapter for economic revitalization areas not within a city or town shall not be available to retail businesses.

(b) In a county containing a consolidated city or within a city or town, a designating body may find that a particular area within its jurisdiction is a residentially distressed area. Designation of an area as a residentially distressed area has the same effect as designating an area as an economic revitalization area, except that the amount of the deduction shall be calculated as specified in section 4.1 of this chapter and the deduction is allowed for not more than five (5) years. In order to declare a particular area a residentially distressed area, the designating body must follow the same procedure that is required to designate an area as an economic revitalization area and must make all the following additional findings or all the additional findings described in subsection (c):

(1) The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings or multifamily dwellings designed for up to four (4) families, including accessory buildings for those dwellings.

(2) Any dwellings in the area are not permanently occupied and are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) Parcels of property in the area:

(A) have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or

(B) are owned by a unit of local government.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection or one (1) of the additional findings described in subsection (c).

(c) In a county containing a consolidated city or within a city or town, a designating body that wishes to designate a particular area a residentially distressed area may make the following additional findings as an alternative to the additional findings described in subsection (b):

(1) A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land.

(2) A significant number of dwelling units within the area are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States.

(4) The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection as an alternative to one (1) of the additional findings described in subsection (b).

(d) A designating body is required to attach the following conditions to the grant of a residentially distressed area designation:

(1) The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.

(2) If a designation application is filed, the designating body may require that the redevelopment or rehabilitation be completed within a reasonable period of time.

(e) To make a designation described in subsection (a) or (b), the designating body shall use procedures prescribed in section 2.5 of this chapter.

(f) The property tax deductions provided by section 3, 4.5, or 4.8 of this chapter are only available within an area which the designating body finds to be an economic revitalization area.

(g) The designating body may adopt a resolution establishing general standards to be used, along with the requirements set forth in the definition of economic revitalization area, by the designating body in finding an area to be an economic revitalization area. The standards must have a reasonable relationship to the development objectives of the area in which the designating body has jurisdiction. The following four (4) sets of standards may be established:

(1) One (1) relative to the deduction under section 3 of this chapter for economic revitalization areas that are not residentially distressed areas.

(2) One (1) relative to the deduction under section 3 of this chapter for residentially distressed areas.

(3) One (1) relative to the deduction allowed under section 4.5 of this chapter.

(4) One (1) relative to the deduction allowed under section 4.8 of this chapter.

(h) A designating body may impose a fee for filing a designation application for a person requesting the designation of a particular area as an economic revitalization area. The fee may be sufficient to defray actual processing and administrative costs. However, the fee charged for filing a designation application for a parcel that contains one (1) or more owner-occupied, single-family dwellings may not exceed the cost of publishing the required notice.

(i) In declaring an area an economic revitalization area, the designating body may:

(1) limit the time period to a certain number of calendar years during which the economic revitalization area shall be so designated;

(2) limit the type of deductions that will be allowed within the economic revitalization area to the deduction allowed under section 3 of this chapter, the deduction allowed under section 4.5 of this chapter, the deduction allowed under section 4.8 of this chapter, or any combination of

these deductions;

(3) limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~and~~ new information technology equipment, **and confined feeding equipment,** if a deduction under this chapter had not been filed before July 1, 1987, for that equipment;

(4) limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as economic revitalization areas on or after September 1, 1988;

(5) limit the dollar amount of the deduction that will be allowed under section 4.8 of this chapter with respect to the occupation of an eligible vacant building; or

(6) impose reasonable conditions related to the purpose of this chapter or to the general standards adopted under subsection (g) for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

To exercise one (1) or more of these powers, a designating body must include this fact in the resolution passed under section 2.5 of this chapter.

(j) Notwithstanding any other provision of this chapter, if a designating body limits the time period during which an area is an economic revitalization area, that limitation does not:

(1) prevent a taxpayer from obtaining a deduction for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** installed on or before the approval deadline determined under section 9 of this chapter, but after the expiration of the economic revitalization area if:

(A) the economic revitalization area designation expires after December 30, 1995; and

(B) the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** was described in a statement of benefits submitted to and approved by the designating body in accordance with section 4.5 of this chapter before the expiration of the economic revitalization area designation; or

(2) limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under section 4, 4.5, or 4.8 of this chapter.

(k) Notwithstanding any other provision of this chapter, deductions:

(1) that are authorized under section 3 of this chapter for property in an area designated as an urban development area before March 1, 1983, and that are based on an increase in assessed valuation resulting from redevelopment or rehabilitation that occurs before March 1, 1983; or

(2) that are authorized under section 4.5 of this chapter for new manufacturing equipment installed in an area designated as an urban development area before March 1, 1983;

apply according to the provisions of this chapter as they existed at the time that an application for the deduction was first made. No deduction that is based on the location of property or new manufacturing equipment in an urban development area is authorized under this chapter after February 28, 1983, unless the initial increase in assessed value resulting from the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment occurred before March 1, 1983.

(l) If property located in an economic revitalization area is also located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), an application for the property tax deduction provided by this chapter may not be approved unless the commission that designated the allocation area adopts a resolution approving the application.

SECTION 3. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.154-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment;**

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding**

equipment is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment;**

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), and subject to subsection (i), an owner of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, and subject to subsection (i), the amount of the deduction that an owner is entitled to for a particular year equals the product of:

(1) the assessed value of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** in the year of deduction under the appropriate table set forth in subsection (e); multiplied by

(2) the percentage prescribed in the appropriate table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

(1) the deduction under this section as in effect on March 1, 2001; and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, **except as provided in subsection (j),** the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or

(2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(i) For purposes of subsection (d), the assessed value of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

(1) the assessed value of the equipment determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by

(2) the quotient of:

(A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by

(B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:

(i) under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and

(ii) without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

(j) For confined feeding equipment, a deduction may not be allowed under subsection (g) for more than five (5) years.

SECTION 4. IC 6-1.1-12.1-5.4, AS AMENDED BY P.L.193-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.4. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction schedule with the person's personal property return on a form prescribed by the department of local government finance with the township assessor of the township in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** is located. Except as provided in subsection (e), the deduction is applied in the amount claimed in a certified schedule that a person files with:

(1) a timely personal property return under IC 6-1.1-3-7(a) or IC 6-1.1-3-7(b); or

(2) a timely amended personal property return under IC 6-1.1-3-7.5.

The township assessor shall forward to the county auditor and the county assessor a copy of each certified deduction schedule filed under this subsection.

(b) The deduction schedule required by this section must contain the following information:

(1) The name of the owner of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(2) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

(3) The amount of the deduction claimed for the first year of the deduction.

(4) For a deduction for confined feeding equipment:

(A) a copy of the certification issued under subsection (j); or

(B) a statement from the person filing the schedule that the equipment is considered certified under subsection (k).

(c) This subsection applies to a deduction schedule with respect to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction schedule to the designating body, and the designating body shall adopt a resolution under section 4.5(g)(2) of this chapter.

(d) A deduction schedule must be filed under this section in the year in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** is installed and in each of the immediately succeeding years the deduction is allowed.

(e) The township assessor or the county assessor may:

(1) review the deduction schedule; and

(2) before the March 1 that next succeeds the assessment date for which the deduction is claimed, deny or alter the amount of the deduction.

If the township assessor or the county assessor does not deny the deduction, the county auditor shall apply the deduction in the amount claimed in the deduction schedule or in the amount as altered by the township assessor or the county assessor. A township assessor or a county assessor who denies a deduction under this subsection or alters the amount of the deduction shall notify the person that claimed the deduction and the county auditor of the assessor's action. The county auditor shall notify the designating body and the county property tax assessment board of appeals of all deductions applied under this section.

(f) If the ownership of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** changes, the deduction provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

(1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and

(2) files the deduction schedules required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) A person may appeal a determination of the township assessor or the county assessor under subsection (e) to deny or alter the amount of the deduction by requesting in writing a preliminary conference with the township assessor or the county assessor not more than forty-five (45) days after the township assessor or the county assessor gives the person notice of the determination. Except as provided in subsection (i), an appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

(i) The county assessor is recused from any action the county property tax assessment board of appeals takes with respect to an appeal under subsection (h) of a determination by the county assessor.

(j) Except as provided in subsection (k), a person that files a certified deduction schedule under subsection (a) for a deduction for confined feeding equipment must file with the schedule proof of certification by the department of environmental management that the equipment for which the person claims the deduction is confined feeding equipment. The department of environmental management, upon application by a person, shall determine whether equipment qualifies as confined feeding equipment. If the department determines that the equipment qualifies as confined feeding equipment, the department shall certify the equipment and provide proof of the certification to the person. The department of environmental management shall prescribe the form and manner of the certification process required by this subsection.

(k) If the department of environmental management receives an application for certification before April 15 of the assessment year, the department shall determine whether the equipment qualifies as confined feeding equipment and provide proof of the certification to the person before June 11 of the assessment year. If the department fails to provide proof under this subsection before June 11 of the assessment year, the equipment is considered certified.

SECTION 5. IC 6-1.1-12.1-5.6, AS AMENDED BY P.L.1-2006, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.6. (a) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter before July 1, 1991. In addition to the requirements of section 5.4(b) of this chapter, a deduction schedule filed under section 5.4 of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction schedule.

(b) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter after June 30, 1991. In addition to the requirements of section 5.4(b) of this chapter, a property owner who files a deduction schedule under section 5.4 of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter.

(c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following information is a public record if filed under this section:

(1) The name and address of the taxpayer.

(2) The location and description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** for which the deduction was granted.

(3) Any information concerning the number of employees at the facility where the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** is located, including estimated totals that were provided as part of the statement of benefits.

(4) Any information concerning the total of the salaries paid to those employees, including estimated totals that were provided as part of the statement of benefits.

(5) Any information concerning the amount of solid waste or hazardous waste converted into energy or other useful products by the new manufacturing equipment.

(6) Any information concerning the assessed value of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** including estimates that were provided as part of the statement of benefits.

(d) The following information is confidential if filed under this section:

(1) Any information concerning the specific salaries paid to individual employees by the owner of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

(2) Any information concerning the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment.**

SECTION 6. IC 6-1.1-12.1-5.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.8. In lieu of providing the statement of benefits required by section 3 or 4.5 of this chapter and the additional information required by section 5.1 or 5.6 of this chapter, the designating body may, by resolution, waive the statement of benefits if the designating body finds that the purposes of this chapter are served by allowing the deduction and the property owner has, during the thirty-six (36) months preceding the first assessment date to which the waiver would apply, installed new manufacturing

equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment,** or developed or rehabilitated property at a cost of at least ten million dollars ($10,000,000) as determined by the assessor of the township in which the property is located.

SECTION 7. IC 6-1.1-12.1-8, AS AMENDED BY P.L.154-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Not later than December 31 of each year, the county auditor shall publish the following in a newspaper of general interest and readership and not one of limited subject matter:

(1) A list of the deduction applications that were filed under this chapter during that year that resulted in deductions being applied under this chapter for that year. The list must contain the following:

(A) The name and address of each person approved for or receiving a deduction that was filed for during the year.

(B) The amount of each deduction that was filed for during the year.

(C) The number of years for which each deduction that was filed for during the year will be available.

(D) The total amount for all deductions that were filed for and applied during the year.

(2) The total amount of all deductions for real property that were in effect under section 3 of this chapter during the year.

(3) The total amount of all deductions for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** that were in effect under section 4.5 of this chapter during the year.

(4) The total amount of all deductions for eligible vacant buildings that were in effect under section 4.8 of this chapter during the year.

(b) The county auditor shall file the information described in subsection (a)(2), (a)(3), and (a)(4) with the department of local government finance not later than December 31 of each year.

SECTION 8. IC 6-1.1-12.1-11.3, AS AMENDED BY P.L.154-2006, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11.3. (a) This section applies only to the following requirements:

(1) Failure to provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter.

(2) Failure to submit the completed statement of benefits form to the designating body before the:

(A) initiation of the redevelopment or rehabilitation;

(B) installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment;** or

(C) occupation of an eligible vacant building;

for which the person desires to claim a deduction under this chapter.

(3) Failure to designate an area as an economic revitalization area before the initiation of the:

(A) redevelopment;

(B) installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment;**

(C) rehabilitation; or

(D) occupation of an eligible vacant building;

for which the person desires to claim a deduction under this chapter.

(4) Failure to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, ~~or~~ new information technology equipment, **or confined feeding equipment** under section 2, 3, 4.5, or 4.8 of this chapter.

(5) Failure to file a:

(A) timely; or

(B) complete;

deduction application under section 5, 5.3, or 5.4 of this chapter.

(b) This section does not grant a designating body the authority to exempt a person from filing a statement of benefits or exempt a designating body from making findings of fact.

(c) A designating body may by resolution waive noncompliance described under subsection (a) under the terms and conditions specified in the resolution. Before adopting a waiver under this subsection, the designating body shall conduct a public hearing on the waiver.".

Page 13, line 40, after "IC 13-18-10-4" insert ", AS AMENDED BY SEA 526-2007, SECTION 167,".

Page 14, line 20, delete "university" and insert "postsecondary educational institution".

Page 14, line 22, delete "university" and insert "postsecondary educational institution".

Page 17, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 37. [EFFECTIVE JULY 1, 2007] **IC 6-1.1-12.1-1, IC 6-1.1-12.1-2, IC 6-1.1-12.1-4.5, IC 6-1.1-12.1-5.4, IC 6-1.1-12.1-5.6, IC 6-1.1-12.1-5.8, IC 6-1.1-12.1-8, and IC 6-1.1-12.1-11.3, all as amended by this act, apply only to property taxes first due and payable after 2008.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

STUTZMAN

Motion prevailed.

HOUSE MOTION
(Amendment 431–3)

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-2.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for ~~his~~ **the person's** direct use in the direct production, extraction, harvesting, or processing of agricultural commodities.

(b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:

(1) the person acquiring the property acquires it for use in conjunction with the production of food and food ingredients or commodities for sale;

(2) the person acquiring the property is occupationally engaged in the production of food or commodities ~~which he~~ **that the person** sells for human or animal consumption or uses for further food and food ingredients or commodity production; and

(3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.

(c) Transactions involving confined feeding equipment (as defined in IC 6-3.1-35-1) are exempt from the state gross retail tax if the person acquiring the property is occupationally engaged in the production of food or commodities that the person sells for human or animal consumption or uses for further food and food ingredient or

commodity production.

SECTION 2. IC 6-3.1-35 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Chapter 35. Confined Feeding Equipment Investment Tax Credit

Sec. 1. As used in this chapter, "confined feeding equipment" means equipment used for either of the following at a confined feeding operation (as defined in IC 13-11-2-40), including a concentrated animal feeding operation (as defined in IC 13-11-2-38.3):

(1) The anaerobic digestion of manure.

(2) The control of odors.

Sec. 2. As used in this chapter and unless the context clearly denotes otherwise, "corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 3. As used in this chapter and unless the context clearly denotes otherwise, "department" refers to the department of state revenue.

Sec. 4. As used in this chapter, "pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; and

(4) a limited liability partnership.

Sec. 5. As used in this chapter, "qualified investment" means a taxpayer's expenditures for confined feeding equipment.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 6-5.5 (the financial institutions tax); and

(3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "taxpayer" means a person, a corporation, a partnership, or another entity that makes a qualified investment.

Sec. 8. (a) A taxpayer that:

(1) is allowed a tax credit under this chapter by the corporation; and

(2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability for a taxable year in which the taxpayer makes a qualified investment.

(b) A tax credit under this chapter must be applied against the taxpayer's state tax liability in the following order:

(1) Against the taxpayer's liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).

(2) Against the taxpayer's liability incurred under IC 6-5.5 (the financial institutions tax).

(3) Against the taxpayer's liability incurred under IC 27-1-18-2 (the insurance premiums tax).

Sec. 9. Subject to section 10 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment is equal to fifty percent (50%) of the amount of the taxpayer's qualified investment.

Sec. 10. (a) A credit under section 9 of this chapter must be taken in four (4) annual installments, beginning with the year in which the taxpayer places into service the taxpayer's confined feeding equipment.

(b) The amount of an annual installment of the credit under this chapter is equal to the credit amount determined under section 9 of this chapter, divided by four (4).

Sec. 11. (a) A person that proposes to make a qualified investment may apply to the corporation before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The corporation shall prescribe the form of the application.

(b) A person that files an application under subsection (a) for a tax credit under this chapter for confined feeding equipment must file with the application proof of certification by the department of environmental management that the equipment for which the person seeks a tax credit is confined feeding equipment. The department of environmental management, upon application by a person, shall determine whether equipment qualifies as confined feeding equipment. If the department determines that the equipment qualifies as confined feeding equipment, the department shall certify the equipment and provide proof of the certification to the person. The department of environmental management shall prescribe the form and manner of the certification process required by this subsection.

Sec. 12. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that the taxpayer's proposed investment satisfies the requirements of this chapter.

Sec. 13. (a) The corporation shall enter into an agreement with an applicant that is granted a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the qualified investment that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) A requirement that the taxpayer shall maintain operations at the site of the qualified investment for at least ten (10) years.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer.

Sec. 14. If the credit allowed by this chapter is available to a member of an affiliated group of corporations filing a consolidated return under IC 6-3-4-14, the credit shall be applied against the state tax liability of the affiliated group.

Sec. 15. If a pass through entity does not have state income tax liability against which the tax credit under this chapter may be applied, a shareholder, member, or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity under this chapter for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, member, or partner is entitled.

Sec. 16. To receive the credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department a copy of the certification required under section 11 of this chapter, a copy of the taxpayer's certificate of compliance issued under section 13 of this chapter, and all information that the department determines is necessary for the calculation of the credit provided by this chapter.".

Page 17, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 32. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **(a) IC 6-2.5-5-2, as amended by this act,**

applies to transactions occurring after June 30, 2007.

(b) IC 6-3.1-35, as added by this act, applies to taxable years beginning after December 31, 2006.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

STUTZMAN

Upon request of Representatives Fry and Pierce, the Speaker ordered the roll of the House to be called. Roll Call 437: yeas 68, nays 24. Motion prevailed.

HOUSE MOTION
(Amendment 431–4)

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2.4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Alternate energy production facility" means:

(1) a solar, **a** wind turbine, **a** waste management, **a** resource recovery, **a** refuse-derived fuel, ~~or~~ **a** wood burning facility, **or an organic waste biomass conversion facility;**

(2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and

(3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(c) "Organic waste biomass conversion facility" means tangible property:

(1) not owned by a person primarily engaged in the generation or retail sale of electricity, gas, or thermal energy;

(2) reported to the Indiana utility regulatory commission before construction begins, as required under IC 8-1-8.5-7; and

(3) directly used to produce electricity of not more than eighty (80) megawatts capacity from agricultural livestock waste nutrients (as defined in 26 U.S.C. 45) or other agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop byproducts or residues.

The term includes metering devices, relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus designated for safe, efficient, and reliable interconnection to an electric utility's system. The term does not include tangible property that uses fossil fuel that exceeds the minimum amount of fossil fuel required for any necessary startup and flame stabilization or municipal solid waste.

~~(c)~~ **(d)** "Cogeneration facility" means:

(1) a facility that:

(A) simultaneously generates electricity and useful thermal energy; and

(B) meets the energy efficiency standards established for cogeneration facilities by the Federal Energy Regulatory Commission under 16 U.S.C. 824a-3;

(2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and

(3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

~~(d)~~ **(e)** "Electric utility" means any public utility or municipally owned utility that owns, operates, or manages any electric plant.

~~(e)~~ **(f)** "Small hydro facility" means:

(1) a hydroelectric facility at a dam;

(2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and

(3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

~~(f)~~ **(g)** "Steam utility" means any public utility or municipally owned utility that owns, operates, or manages a steam plant.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

STUTZMAN

Motion prevailed.

HOUSE MOTION
(Amendment 431–11)

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 3, delete lines 3 through 28.

Page 5, delete lines 7 through 17.

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

NIEZGODSKI

The Speaker ordered a division of the House and appointed Representatives Stilwell and Bosma to count the yeas and nays. Yeas 55, nays 37. Motion prevailed.

HOUSE MOTION
(Amendment 431–10)

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-12-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2007 (RETROACTIVE)]: Sec. 29. **(a) As used in this section, "organic waste biomass conversion unit" means tangible property:**

(1) not owned by a person primarily engaged in the generation or retail sale of electricity, gas, or thermal energy;

(2) reported to the Indiana utility regulatory commission before construction begins, as required under IC 8-1-8.5-7; and

(3) directly used to produce electricity of eighty (80) megawatts capacity or less from agricultural livestock waste nutrients (as defined in 26 U.S.C. 45) or other agriculture sources, including distiller's grains, kitchen waste, orchard tree crops, vineyard produce, grain, legumes, sugar, and other crop byproducts.

The term includes metering devices, relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus designated for safe, efficient, and reliable interconnection to an electric utility's system. The term does not include tangible property that uses fossil fuel in an amount exceeding the minimum amount of fossil fuel required for any necessary startup and flame stabilization.

~~(a)~~ **(b)** For purposes of this section, "wind power device" means a device, such as a windmill or a wind turbine, that is designed to utilize the kinetic energy of moving air to provide mechanical energy or to produce electricity.

~~(b)~~ **(c)** The owner of real property, or a mobile home that is not assessed as real property, that is equipped with:

(1) a wind power device; **or**

(2) an organic waste biomass conversion unit;

is entitled to an annual property tax deduction.

(d) The amount of the deduction equals the remainder of:

(1) the assessed value of the real property or mobile home with the ~~wind power device~~ **tangible property described in subsection (c)(1) or (c)(2)** included; minus

(2) the assessed value of the real property or mobile home without the ~~wind power device~~ **tangible property described in subsection (c)(1) or (c)(2).**

SECTION 2. IC 6-2.3-1-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **Sec. 2.4. "Commission" refers to the Indiana utility regulatory commission.**

SECTION 3. IC 6-2.3-1-5.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **Sec. 5.8. "Organic waste biomass conversion unit" has the meaning set forth in IC 6-1.1-12-29.**

SECTION 4. IC 6-2.3-5.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Chapter 5.3. Credits

Sec. 1. A taxpayer is entitled to the credits against the taxpayer's tax liability provided in this chapter.

Sec. 2. (a) If the amount of a credit granted under this chapter for a taxpayer in a taxable year exceeds the taxpayer's tax liability for that taxable year, the taxpayer may carry the excess over to not more than three (3) subsequent taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of an unused credit.

Sec. 3. To apply a credit granted under this chapter against the taxpayer's tax liability, a taxpayer must claim the credit on the taxpayer's tax return or returns in the manner prescribed by the department. A taxpayer claiming a credit under this chapter shall submit to the department any additional information that the department determines is necessary for the department to determine whether the taxpayer is eligible for the credit.

Sec. 4. The amount of a credit granted under this chapter shall be disregarded by the commission in determining a taxpayer's rates.

Sec. 5. (a) A taxpayer that purchases electricity for resale at retail from an individual or entity that:

(1) operates an organic waste biomass conversion unit; and

(2) generates the electricity from the organic waste biomass conversion unit;

is entitled to a credit against the taxpayer's tax liability in the taxable year in which the electricity is received.

(b) The amount of the credit is equal to the result determined under STEP FOUR of the following formula:

STEP ONE: Determine the rate per kilowatt hour that the taxpayer would be obligated to pay for the electricity under 170 IAC 4-4.1-9 (as effective January 1, 2007), as applied without:

(A) regard to whether the taxpayer is an electric utility (as defined in 170 IAC 4-4.1-1 (as effective January 1, 2007)); and

(B) any changes resulting from the negotiation of a different rate between the taxpayer and the electric power producer.

STEP TWO: Determine the greater of zero (0) or the difference determined by subtracting the STEP ONE amount from the rate per kilowatt hour that the taxpayer paid for the electricity.

STEP THREE: Determine the lesser of the following:

(A) The STEP TWO result.

(B) The greater of zero (0) or fifty percent (50%) of the result determined by subtracting the STEP ONE amount from the average retail rate at which the taxpayer sells a kilowatt hour of electricity to residential customers (or all customers if the taxpayer does not sell electricity at retail to residential customers) during the same rating period.

STEP FOUR: Determine the greater of zero (0) or the product determined by multiplying the STEP THREE result by the number of kilowatt hours purchased by the taxpayer during the rating period.

SECTION 5. IC 6-3.1-27-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. As used in this chapter, "qualified investment" means the amount of a taxpayer's expenditures for:**

(1) the purchase of new equipment;

(2) the purchase of new computers and related equipment;

(3) costs associated with the modernization of existing facilities;

(4) onsite infrastructure improvements;

(5) the construction of new facilities;

(6) costs associated with retooling existing machinery and equipment;

(7) costs associated with the construction of special purpose buildings and foundations; and

(8) costs of obtaining rights to use any patented process and any related trademark, if the rights are acquired from an entity that:

(A) does not have control of or a material, direct, or indirect ownership interest in:

(i) the taxpayer that makes a qualified investment; or

(ii) another entity that has control of or a material, direct, or indirect ownership interest in the taxpayer; and

(B) is not an entity in which:

(i) the taxpayer that makes a qualified investment; or

(ii) another entity that has control of or a material, direct, or indirect ownership interest in the taxpayer;

has control of or a material, direct, or indirect ownership interest;

that are certified by the corporation under section 10.5 of this chapter as being eligible for the credit under section 10.5 of this chapter.

SECTION 6. IC 6-3.1-27-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.5. (a) The amount of the credit to which a taxpayer is entitled under this section is the amount of the taxpayer's qualified investment that is placed in service in the taxable year.**

(b) To be entitled to a credit under this section, a taxpayer must request that the corporation determine whether an expenditure is a qualified investment. To make a request for a determination, a taxpayer must file with the corporation an application in the form and in the manner specified by the corporation. The application must be filed with the corporation before the taxpayer takes a substantial step toward improving the site where the qualified investment will be placed in service.

(c) After receiving an application for a credit under this section, the corporation shall review the application to determine whether the proposed expenditure is a qualified investment described in subsection (a) and the amount of the credit under this section to which the applicant would be

entitled. The corporation shall send to the taxpayer and to the department of state revenue a letter:

(1) certifying that the taxpayer is entitled to claim the credit under this section for a qualified investment; or

(2) stating the reason why the taxpayer is not entitled to claim the credit.

If a taxpayer receives a credit under this section, the property for which the credit was granted must be placed in service not more than five (5) years after the corporation issues a letter under this section certifying that the taxpayer is entitled to claim the credit.

(d) If a taxpayer receives a credit under this section and does not make the qualified investment (or a part of the qualified investment) for which the credit was granted within the time required by subsection (c), the corporation may require the taxpayer to repay the following:

(1) The additional amount of state tax liability that would have been paid by the taxpayer if the credit had not been granted for the qualified investment (or part of the qualified investment) that was not made by the taxpayer within the time required by subsection (c).

(2) Interest at a rate established under IC 6-8.1-10-1(c) on the additional amount of state tax liability referred to in subdivision (1).

(e) The corporation shall determine the maximum amount of credits to which a taxpayer is entitled under this section. The corporation may not grant under this section more than ten million dollars ($10,000,000) in credits for all taxpayers for all taxable years. The corporation may not grant under this section more than two million dollars ($2,000,000) in credits to any one (1) taxpayer or for any one (1) location for all taxable years.

SECTION 7. IC 6-3.1-27-13, AS AMENDED BY P.L.191-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. To receive the credit provided by this chapter, a taxpayer must do the following:

(1) Claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.

(2) Provide a copy of the certificate of the corporation finding:

(A) that the taxpayer; or

(B) if the taxpayer is a shareholder, partner, or member of a pass through entity, that the pass through entity;

is eligible for the credit under IC 5-28-6-3 **or section 10.5 of this chapter.**

(3) Submit to the department proof of all information that the department determines is necessary for the calculation of the credit provided by this chapter.

The department may require a pass through entity to provide informational reports that the department determines necessary for the department to calculate the percentage of a credit provided by this chapter to which a shareholder, partner, or member of the pass through entity is entitled.".

Page 17, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 37. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **(a) IC 6-1.1-12-29, as amended by this act, applies only to property taxes first due and payable after December 31, 2007.**

(b) IC 6-2.3-5.3, as added by this act, applies only to taxable years beginning after December 31, 2006.

(c) IC 6-3.1-27-10.5, as added by this act, applies only to qualified investments placed in service after December 31, 2007.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

GRUBB

Motion prevailed.

HOUSE MOTION
(Amendment 431–8)

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 13, line 15, delete "An" and insert "**Subject to IC 15-9-2-5, an**".

Page 16, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 26. IC 15-9-2-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. (a) Before January 1, 2008, the department shall implement a voluntary certified livestock producer program to provide incentives and recognition for livestock producers who use innovative environmental, animal health, and general management practices. Criteria for certification in the program may include the following:**

(1) Compliance with all:

(A) laws and rules concerning confined feeding operations (as defined by IC 13-11-2-40), including concentrated animal feeding operations; and

(B) local zoning ordinances.

(2) Completion of educational modules on the environmental impact of livestock production.

(3) Compliance with a national livestock association's guidelines for animal health and food safety.

(4) Participation in biosecurity measures, including the following:

(A) Premises or property identification under the state board of animal health's implementation of stage 1 of the National Animal Identification System.

(B) Implementation of the United States Department of Agriculture's National Poultry Improvement Plan.

(C) Implementation of the United States Department of Agriculture's online biosecurity guidelines and checklist.

(b) The department may remit a part of the fee required under IC 13-18-10-2.7 for livestock producers who are certified in the program.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

LEHE

Motion prevailed.

HOUSE MOTION
(Amendment 431–7)

Mr. Speaker: I move that Engrossed Senate Bill 431 be amended to read as follows:

Page 16, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 26. IC 15-9-2-3, AS AMENDED BY P.L.1-2006, SECTION 294, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The department shall do the following:

(1) Provide administrative and staff support for the following:

(A) The center for value added research.

(B) The state fair board for purposes of administering the director of the department of agriculture's duties under IC 15-1.5-4.

(C) The Indiana corn marketing council for purposes of administering the duties of the director of the department of agriculture under IC 15-4-10.

(D) The Indiana organic peer review panel.

(E) The Indiana dairy industry development board for purposes of administering the duties of the director of the department of agriculture under IC 15-6-4.

(F) The Indiana land resources council.

(G) The Indiana grain buyers and warehouse licensing

agency.

(H) The Indiana grain indemnity corporation.

(I) The division of soil conservation established by IC 15-9-4-1.

(2) Administer the election of state fair board members.

(3) Administer state programs and laws promoting agricultural trade.

(4) Administer state livestock or agriculture marketing grant programs.

(5) Administer economic development efforts for agriculture.

(6) Promote and support the biomass grant program established by IC 15-9-5-3.

SECTION 27. IC 15-9-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 5. Biomass Grant Program

Sec. 1. As used in this chapter, "office" means the office of energy and defense development.

Sec. 2. As used in this chapter, "person" means an individual, a partnership, a corporation, a limited liability company, an unincorporated association, a governmental entity, or any other legal entity.

Sec. 3. There is established the biomass grant program.

Sec. 4. The office shall award grants and administer the program from funds appropriated to the office under section 6 of this chapter.

Sec. 5. The department shall assist the office in carrying out the office's duties under this chapter.

Sec. 6. The amount necessary to implement this chapter is annually appropriated to the office.

Sec. 7. A person may apply on a form prescribed by the office for a grant under this chapter to defray a part of the cost of installing a biomass energy project that makes use of any of the following technologies:

(1) Anaerobic digestion.

(2) Gasification.

(3) Fast pyrolysis.

Sec. 8. A grant awarded under this chapter may not exceed the greater of:

(1) twenty-five percent (25%) of a person's biomass energy project costs; or

(2) two hundred fifty thousand dollars ($250,000).

Sec. 9. The total amount of grants awarded under this chapter in a state fiscal year may not exceed two million dollars ($2,000,000).

Sec. 10. This chapter expires July 1, 2009.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 431 as printed March 30, 2007.)

LEHE

Motion prevailed. The bill was ordered engrossed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

The Speaker announced the death today of former Representative Donald Dean of Bloomfield. Information concerning the visitation and funeral will be available for the members in the Speaker's office.

Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that Engrossed Senate Bills 472 and 480 had been referred to the Committee on Ways and Means.

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 30, 88, and 229 for signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 270, Roll Call 430, on April 3, 2007. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, my vote failed to register. I intended to vote yea."

EBERHART

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 430 to 86 yeas, 3 nays.*]

HOUSE MOTION

Mr. Speaker: I move that Representative Crouch be added as cosponsor of Engrossed Senate Bill 327.

MAYS

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Borders, the House adjourned at 5:00 p.m., this third day of April, 2007, until Thursday, April 5, 2007, at 10:00 a.m.

B. PATRICK BAUER
Speaker of the House of Representatives

CLINTON McKAY
Principal Clerk of the House of Representatives